

CHAPTER Env-Sw 400 COLLECTION, STORAGE, AND TRANSFER FACILITY REQUIREMENTS

Statutory Authority: RSA 149-M:7

PART Env-Sw 401 APPLICABILITY

Env-Sw 401.01 Applicability. The rules in this chapter shall apply to collection, storage, and transfer (C/S/T) facilities, including transfer stations and recycling facilities.

PART Env-Sw 402 PERMITTING REQUIREMENTS

Env-Sw 402.01 Permit Required.

(a) A permit issued pursuant to the solid waste rules shall be required for construction, operation and closure of a C/S/T facility, unless exempt pursuant to Env-Sw 302.03 or Env-Sw 408.

(b) The type of permit required shall be as specified in Env-Sw 302.

Env-Sw 402.02 Permit Application Requirements. The applicant for a C/S/T facility permit shall prepare the application in accordance with:

- (a) Env-Sw 314 for a standard permit;
- (b) Env-Sw 313 for an emergency permit;
- (c) Env-Sw 312 for a research and development permit; and
- (d) Env-Sw 311 for a permit-by-notification.

PART Env-Sw 403 SITING REQUIREMENTS

Env-Sw 403.01 Applicability.

(a) The siting requirements in this part shall apply to all C/S/T facilities, except:

- (1) Facilities that hold a permit issued under RSA 149-M prior to the 2005 readoption of the solid waste rules;
- (2) Permit-exempt facilities identified in Env-Sw 302.03 or Env-Sw 408;
- (3) Permit-by-notification facilities having an active life of 90 days or less;
- (4) Research and development permit facilities as provided by Env-Sw 312.02(b); and
- (5) Emergency permit facilities as provided by Env-Sw 313.02(b).

(b) The siting requirements in this part shall apply as the complement of the siting requirements in Env-Sw 1003 for all facilities, Env-Sw 1102 for facilities having an active life longer than 90 days, and Env-Sw 1203 for permit-by-notification facilities.

Env-Sw 403.02 Setback Requirements.

(a) A C/S/T facility shall be sited no less than 50 feet from the footprint of any landfill not yet

capped, except a lesser distance shall be permitted if the department determines based on information provided in the permit application and in an approved closure plan for the landfill that the lesser distance shall not prohibit compliance with Env-Sw 1003.01.

- (b) A C/S/T facility shall be sited no less than 50 feet from any property line.

PART Env-Sw 404 DESIGN REQUIREMENTS

Env-Sw 404.01 Applicability.

- (a) The design requirements in this part shall apply to all C/S/T facilities, except:
 - (1) Permit-exempt facilities identified in Env-Sw 302.03 or Env-Sw 408;
 - (2) Permit-by-notification C/S/T facilities having an active life of 90 days or less;
 - (3) Research and development permit facilities as provided by Env-Sw 312.03(b); and
 - (4) Emergency permit C/S/T facilities as provided by Env-Sw 313.02(b).

(b) The design requirements in this part shall apply as the complement of the design requirements in Env-Sw 1004 for all facilities, Env-Sw 1103 for facilities having an active life longer than 90 days, Env-Sw 1200 for permit-by-notification facilities and, depending on the type of waste managed, Env-Sw 900.

Env-Sw 404.02 General Design Requirements. A C/S/T facility shall be designed to operate in conformance with Env-Sw 405.

Env-Sw 404.03 Design Features and Appurtenances.

(a) The design of a C/S/T facility shall include each of the following features and appurtenances, except as provided in (b) below:

- (1) Waste receiving and inspection area(s);
- (2) Waste sorting area(s), if facility operations involve the sorting of waste;
- (3) Hot load segregation and control area(s);
- (4) Waste storage areas and devices including, as appropriate for the type of waste being stored, transfer containers, bins, concrete bunkers, covered pallets, buildings and storage pads for stockpiles;
- (5) Equipment required to operate the facility in conformance with the solid waste rules including, as applicable to the size and scope of operations, scales, balers, compactors, mechanical sorting devices, fork lifts, trucks and other vehicles;
- (6) Equipment storage and cleaning areas;
- (7) A closed drainage system or functionally equivalent operating system to manage the discharge of liquids, if any, from waste handling and storage areas and from equipment cleaning area(s);

- (8) Lighting;
 - (9) Active or passive ventilation systems for enclosed areas;
 - (10) Fire control devices or systems, including smoke detectors, alarms, fire extinguishers, and sprinkler systems as appropriate;
 - (11) Shelter for facility operators;
 - (12) Sanitation facilities for facility operators;
 - (13) First aid station for facility operators;
 - (14) Emergency communication for facility operators;
 - (15) Office or other area for maintaining and storing facility records; and
 - (16) Access control devices such as fencing, gates and bars, locked buildings, and signs.
- (b) A design feature or appurtenance listed in (a) above shall not be required if:
- (1) The applicant or permittee, as applicable, demonstrates in a permit application, application for permit modification or compliance report, as applicable, that:
 - a. The underlying facility operating requirements in Env-Sw 405, Env-Sw 1005, Env-Sw 1105, and Env-Sw 900, as applicable, will be met without the design feature or appurtenance or met through use of an alternative feature, appurtenance or practice; and
 - b. Not incorporating the design feature or appurtenance, as proposed, will not result in a violation of the universal environmental performance requirements in Env-Sw 1002; and
 - (2) The department provides written approval thereof in the permit or permit modification, specifically including reference to any alternative feature, appurtenance or practice the facility shall employ as a condition of the approval.

Env-Sw 404.04 Waste Handling and Storage Area Design Requirements.

- (a) A waste handling and storage area shall be designed to collect and contain waste in a manner that is protective of the environment, public health and safety.
- (b) Storage areas for waste being managed as a recyclable material shall be designed to preserve the market value of the material. For instance, waste paper destined for recycling shall be stored indoors, protected from rain and moisture.
- (c) A waste handling and storage area shall be delineated and signed to control and assure proper use of the area by facility users and operators, as appropriate based on the following factors:
 - (1) Whether public access to the area will be allowed;
 - (2) Whether a full time operator will be present to monitor and control use of the area;
 - (3) Whether the area will be used to handle wastes requiring segregation from other waste

types;

(4) Whether the area will be used to handle wastes requiring no public contact in order to protect the environment, public health or safety; and

(5) Whether the method of assuring the facility receives no excess waste will be based on visually monitoring the extent to which the designated storage area is filled.

(d) A waste handling and storage area shall be designed to manage and store waste in a manner that controls to the greatest extent practicable dust, litter, insects, odors, vectors, spills, the production of leachate, fire hazards including spontaneous combustion, the generation of methane and other hazardous or explosive gases, noise and nuisances.

(e) A waste storage and handling area shall be designed to prohibit public access to any area used for storing or handling a waste that requires special handling to assure protection of the environment, public health and safety.

(f) A C/S/T facility shall be designed to allow year round access by facility operators to all waste storage areas for the purposes of:

(1) Inspection;

(2) Monitoring;

(3) Maintenance; and

(4) The removal of waste as necessary to comply with Env-Sw 405.04 and to protect the environment, public health and safety.

(g) Stockpiles shall be designed in conformance with the requirements of Env-Sw 404.05.

(h) Storage areas for a waste listed in Env-Sw 900 shall be designed in conformance with the applicable collection, storage and transfer requirements specified in Env-Sw 900.

(i) Putrescible waste shall not be collected or stored on the ground.

(j) Mixed municipal solid waste, including mixed refuse, shall not be collected or stored on the ground.

Env-Sw 404.05 Waste Stockpiles.

(a) Stockpiles of waste shall be positioned within a footprint identified on the facility site plan.

(b) If a stockpile will be open to precipitation, the footprint of the stockpile shall be:

(1) Underlain by an asphalt, concrete or packed soil surface; and

(2) Graded to prohibit precipitation and surface drainage from surrounding areas from draining through or collecting in the stockpile area.

(c) A waste stockpile shall be located, sized and configured in accordance with (d) below and as required by local fire authorities in order to assure that available local fire fighting equipment and resources will be able to effectively respond to a fire at the facility.

- (d) At a minimum, a C/S/T facility shall be designed to:
 - (1) Provide access to all waste stockpiles for fire control purposes, including the placement and maintenance of fire lanes between and around all stockpiles of combustible waste;
 - (2) Limit the height of the stockpiles to a height compatible with local fire fighting equipment response capabilities; and
 - (3) Provide a water supply within a distance and in a quantity sufficient for local fire fighting needs.
- (e) A stockpile shall be sized and configured to be physically stable against slides, collapse or other conditions that might result in personal injury or destruction of property.
- (f) A stockpile shall be covered when required to protect the environment, public health or safety.
- (g) A stockpile of a waste listed in Env-Sw 900 shall conform to the applicable stockpiling requirements specified in Env-Sw 900, if any.
- (h) If a waste exhibits a characteristic which has the potential to cause groundwater or surface water contamination when placed in contact with the ground surface, the waste shall be stockpiled in a manner as to prevent the contamination by means of a leachate collection system or functionally equivalent control system.
- (i) If a waste exhibits a characteristic which has the potential to cause air pollution or a respiratory hazard, the waste shall be stockpiled in a manner as to prevent the air pollution and respiratory hazard in conformance with state and federal regulations for the control of air pollution, including RSA 125-C.

PART Env-Sw 405 OPERATING REQUIREMENTS

Env-Sw 405.01 Applicability.

- (a) The operating requirements in this part shall apply to all C/S/T facilities, except:
 - (1) Permit-exempt facilities identified in Env-Sw 302.03 or Env-Sw 408;
 - (2) Permit-by-notification facilities with an active life of 90 days or less;
 - (3) Research and development permit facilities as provided by Env-Sw 312.03(b); and
 - (4) Emergency permit facilities as provided by Env-Sw 313.02(b).
- (b) The operating requirements in this part shall apply as the complement of the operating requirements in Env-Sw 1005 for all facilities, Env-Sw 1105 for all facilities having an active life longer than 90 days, Env-Sw 1204 for permit-by-notification facilities and, depending on the type of waste managed, Env-Sw 900.

Env-Sw 405.02 Collection and Storage Requirements.

- (a) A C/S/T facility shall not collect a waste for which it has no provisions for storage or for

which available storage provisions are not protective of the environment, public health and safety.

(b) A C/S/T facility shall not receive any waste for which it has no arrangements for removal to an authorized facility.

(c) Waste shall be handled and stored only in areas that are designed and operated in conformance with Env-Sw 404.04 and Env-Sw 404.05.

(d) Materials destined for recycling shall be collected and stored in a manner as to preserve the market value of the material.

(e) Stockpiles of metal shall be maintained free of plastic, wood and other non-metal debris.

(f) White goods potentially containing polychlorinated biphenols (PCBs) shall be stored separately in an accessible location and in such a manner as to allow qualified personnel to examine each article and remove any PCB-containing components in accordance with applicable regulations.

(g) White goods potentially containing chlorinated fluorocarbons (CFCs) shall be stored in an accessible location and in such a manner as to allow qualified personnel to readily examine each article and extract any CFCs present in accordance with applicable regulations.

(h) If the facility manages a waste identified in Env-Sw 900, the facility shall collect and store the waste in accordance with the applicable collection, storage and transfer requirements specified in Env-Sw 900.

Env-Sw 405.03 Waste Transfer Requirements.

(a) All solid waste received by a C/S/T facility shall be actively managed.

(b) All solid waste leaving a C/S/T facility shall be transferred to an authorized facility.

(c) A waste shall not be stored at a C/S/T facility for a period of time which results in a condition adversely affecting the environment, public health or safety, including conditions that attract insects and vectors, generate odors or leachate, or have the potential to cause fire or explosion.

(d) Putrescible wastes shall be transferred from the facility before producing a noticeable odor or within one week of its receipt by the facility, whichever is earlier.

(e) If the facility manages a waste identified in Env-Sw 900, the facility shall remove the waste in accordance with the applicable collection, storage and transfer requirements specified in Env-Sw 900.

Env-Sw 405.04 Public Benefit Requirements. As a means for demonstrating that the facility meets the requirements for providing a substantial public benefit as specified in Env-Sw 1005, the operation of a C/S/T facility shall be deemed to provide a substantial public benefit without further demonstration when facility operations satisfy the following operating conditions:

(a) Irrespective of the source of the waste, the total quantity of waste transferred by the facility on an annual basis to New Hampshire landfills and New Hampshire incinerators shall not exceed the total quantity of waste received by the facility from New Hampshire generators, figured in tons;

(b) The facility shall operate, or be part of an integrated system which operates, in a manner which:

- (1) Separates and diverts recyclable materials to authorized facilities for reuse; and
- (2) Avoids disposal of recyclable materials in a lined landfill with a leachate collection system; and
- (c) During each calendar year that the facility receives waste, the permittee shall communicate with the host solid waste management district as specified in Env-Sw 1105.12.

PART Env-Sw 406 CLOSURE REQUIREMENTS

Env-Sw 406.01 Applicability.

- (a) The closure requirements in this part shall apply to all C/S/T facilities, except:
 - (1) Permit-exempt facilities identified in Env-Sw 302.03 or Env-Sw 408;
 - (2) Permit-by-notification facilities with an active life of 90 days or less;
 - (3) Research and development permit facilities as provided by Env-Sw 312.03(b); and
 - (4) Emergency permit facilities as provided by Env-Sw 313.02(b).
- (b) The closure requirements in this part shall apply as the complement of the closure requirements in Env-Sw 1006 for all facilities, Env-Sw 1106 for facilities having an active life longer than 90 days, Env-Sw 1205 for permit-by-notification facilities and, depending on the type of waste managed, Env-Sw 900.

Env-Sw 406.02 Removal of Processed Recyclable Materials. To comply with Env-Sw 1106.02(e), all processed recyclable materials shall be removed to an authorized facility and not remain at the closing facility under any claim of a permit exemption pursuant to Env-Sw 302.03.

PART Env-Sw 407 PERMIT-BY-NOTIFICATION FACILITIES

Env-Sw 407.01 Purpose. The purpose of the rules in this part is to identify types of C/S/T facilities eligible for a permit-by-notification pursuant to Env-Sw 311.

Env-Sw 407.02 Limited Public Transfer Stations. A C/S/T facility shall be eligible for a permit-by-notification pursuant to Env-Sw 311, provided that the facility meets each of the following requirements:

- (a) The facility shall be a limited public facility;
- (b) The facility shall comply with the requirements of Env-Sw 1200;
- (c) The facility shall receive the following types of waste only:
 - (1) Mixed municipal solid waste comprised principally of mixed refuse;
 - (2) Source separated select recyclable materials;
 - (3) Bulky waste, including white goods, furniture, and stumps;
 - (4) Construction and demolition debris;

- (5) Tires; and
- (6) Wood ash from household stoves; and
- (d) The capacity of the facility shall be restricted as follows:
 - (1) The facility shall receive no more than 30 tons of waste per day on average:
 - a. Annually, for facilities operating longer than one year; and
 - b. Over the life expectancy of the facility, for facilities operating less than one year;
 - (2) The facility shall store no more than 14 times the maximum quantity of waste the facility shall be authorized in the permit to receive on average daily; and
 - (3) The storage limit specified by (2) above shall not include storage of select recyclable materials, provided that:
 - a. The materials are fully processed as specified by Env-Sw 104.12;
 - b. The materials are actively managed by the facility; and
 - c. Storage of the materials complies with the universal facility requirements in Env-Sw 1000 and, at facilities having an active life of longer than 90 days, the additional facility requirements in Env-Sw 1100.

Env-Sw 407.03 Collection Centers for Select Recyclables. Facilities that collect and temporarily store select recyclable materials and transfer said materials to authorized facilities or markets for recycling, shall be eligible for a permit-by-notification pursuant to Env-Sw 311, provided that:

- (a) Select recyclable materials are the only type of solid waste received by the facility;
- (b) The select recyclable materials have been source separated by material type before delivery to the facility;
- (c) The select recyclable materials are actively managed; and
- (d) The facility complies with Env-Sw 1200.

Env-Sw 407.04 Scrap Metal Collection and Recycling Centers. Facilities that only collect and temporarily store ferrous or non-ferrous scrap metal, or a combination thereof, and that transfer said scrap metal to authorized facilities or markets for recycling, shall be eligible for a permit-by-notification pursuant to Env-Sw 311, provided that:

- (a) The facility does not receive any:
 - (1) Parts of a motor vehicle that contain or have contained fluids or lubricants, excluding lead acid batteries;
 - (2) Waste listed in Env-Sw 900, including asbestos, ash, contaminated soils and other absorbent media, infectious waste, and tires; and

- (3) Free-draining oil or lubricants, including cutting oils mixed with or coating metal shavings;
- (b) The scrap metal goods, as received by the facility, are not mixed with other types of waste, including municipal solid waste, and construction and demolition debris;
- (c) The permittee identifies whether the scrap metal goods include any of the following substances or devices, and subsequently assures that such substances, if present, are managed in accordance with applicable state and federal rules and regulations, either at the facility or by transfer to another facility that provides such proper management:
 - (1) CFCs;
 - (2) PCBs;
 - (3) Mercury-containing switches and other devices;
 - (4) Batteries; and
 - (5) Other regulated substances, materials, and wastes;
- (d) All tanks, drums and other containers received by the facility have been emptied and cleaned of residues in accordance with applicable state and federal rules and regulations;
- (e) The scrap metal processing activities conducted at the facility are limited to sorting, cutting, crushing, baling, or smelting, or a combination thereof, provided the latter is done in units not requiring a permit under Env-A 600;
- (f) The scrap metal is actively managed;
- (g) All residual waste at the facility is:
 - (1) Directly attributable to the allowable scrap metal processing activities;
 - (2) Segregated from the recyclable scrap metal and stored in accordance with Env-Sw 405;
 - (3) Actively managed; and
 - (4) Not accumulated in excess of 30 cubic yards, unless the permittee establishes and maintains an approved financial assurance plan pursuant to Env-Sw 1400 to guarantee the cost of disposing of the residual waste; and
- (h) All other applicable permit-by-notification facility requirements are met as specified in Env-Sw 1200.

Env-Sw 407.05 Truck Transfer Stations. Waste collection and transfer operations that are carried out by temporarily parking a truck or other motor vehicle at a site where persons then deliver waste from off-site locations, shall be eligible for a permit-by-notification, valid for an individual operating site only, provided that:

- (a) All waste collected by the facility is placed directly into a motor vehicle that:
 - (1) Is registered and insured by the permittee for legal use on public roads;

- (2) Bears a current state inspection sticker;
 - (3) Is labeled in accordance with RSA 149-M:10, II;
 - (4) Displays the required permit;
 - (5) Displays a list of authorized and prohibited wastes, consistent with (d) and (e) below;
 - (6) Is equipped with a spill response kit;
 - (7) Is equipped with an emergency communication system; and
 - (8) Fully encloses the collected waste;
- (b) The land owner has granted the permittee permission to so use the land;
 - (c) The site is operated one day per week only, during daylight hours only;
 - (d) Subject to (e) below, the facility receives only mixed municipal solid waste or source-separated recyclable materials or a combination thereof;
 - (e) The facility does not receive:
 - (1) Any waste listed in Env-Sw 1204.03;
 - (2) Ash;
 - (3) Liquid waste; or
 - (4) White goods;
 - (f) The waste is not stored at the collection site overnight; and
 - (g) All other applicable permit-by-notification facility requirements are met, as specified in Env-Sw 1200.

PART Env-Sw 408 PERMIT-EXEMPT FACILITIES

Env-Sw 408.01 Purpose. The purpose of the rules in this part is to identify C/S/T facilities which are permit-exempt, pursuant to Env-Sw 302.03(b)(1).

Env-Sw 408.02 General Conditions for Exemption.

- (a) The C/S/T facilities described in this part shall be exempt from obtaining a permit, subject to the following conditions:
 - (1) The facility shall comply with:
 - a. The universal facility requirements in Env-Sw 1000; and
 - b. The waste specific requirements in Env-Sw 900, as applicable based on the type of waste managed by the facility; and

(2) All waste managed at the facility shall be actively managed.

(b) A permit exemption shall not affect a person's obligation to obtain all requisite federal, state or local permits, licenses or approvals, or to comply with all other applicable federal, state, district or local permits, ordinances, laws or approvals or conditions pertaining to the permit-exempt activities.

Env-Sw 408.03 Site of Generation C/S/T Facilities. Subject to Env-Sw 408.02, no permit shall be required to temporarily store a waste at the site of generation pending its transfer to an authorized facility.

Env-Sw 408.04 C/S/T Facilities for Processed Select Recyclable Materials. Subject to Env-Sw 408.02, no permit shall be required to collect, store and transfer to markets for the production of certified waste-derived products, processed select recyclable materials.

Env-Sw 408.05 C/S/T Facilities for Unprocessed Select Recyclable Materials. Subject to Env-Sw 408.02, no permit shall be required to collect, store and transfer unprocessed select recyclable materials from off-site locations provided that:

- (a) Only source separated recyclable materials shall be collected;
- (b) The recyclable materials shall be collected and stored in containers as specified by (c) below:
- (c) The containers shall be:
 - (1) Covered; and
 - (2) Labeled to identify ownership and authorized use(s);
- (d) No more than 100 cubic yards of recyclable materials shall be stored at the facility; and
- (e) The facility shall be operated by:
 - (1) A person who owns an authorized facility that shall receive the recyclable materials for processing or reuse, or both;
 - (2) A commercial waste hauler holding a written agreement from an authorized facility that shall receive the recyclable materials for processing or reuse, or both; or
 - (3) A person in responsible charge of a fund drive or similar event sponsored by a community, government or civic non-profit organization.

Env-Sw 408.06 Waste In-Transit Storage Areas. Subject to Env-Sw 408.02, no permit shall be required to temporarily store waste while in transit to an authorized facility, provided that:

- (a) The waste shall arrive at the storage facility in covered container(s), to include a waste collection vehicle;
- (b) No waste shall be removed from or added to the container(s) while at the storage facility;
- (c) Not more than 150 cubic yards of waste shall be stored at the storage facility;
- (d) The waste shall be stored no longer than 4 days from date of receipt; and

(e) The waste shall not be stored in a manner or for a time period which has the potential to result in conditions adversely affecting the environment, public health or safety, including conditions that attract insects or vectors, generate odors or leachate, or have the potential to cause fire or explosion.

Env-Sw 408.07 Roadside Clean-up Staging Areas. Subject to Env-Sw 408.02, no permit shall be required to temporarily store waste collected from highway rights-of-way pending transfer to an authorized facility provided that:

(a) The facility shall be on property controlled by a state or local highway agency controlling the right-of-way; and

(b) The facility shall be operated by the same state or local highway agency.

CHAPTER Env-Sw 500 PROCESSING/TREATMENT FACILITY REQUIREMENTS

Statutory Authority: RSA 149-M:7

PART Env-Sw 501 APPLICABILITY

Env-Sw 501.01 Applicability. The rules in this chapter shall apply to processing/treatment (P/T) facilities, including:

(a) Composting facilities also subject to Env-Sw 600; and

(b) Incinerators also subject to Env-Sw 700.

PART Env-Sw 502 PERMITTING REQUIREMENTS

Env-Sw 502.01 Permit Required.

(a) A permit issued pursuant to the solid waste rules shall be required for construction, operation and closure of a P/T facility, unless exempt pursuant to Env-Sw 302.03, Env-Sw 508, Env-Sw 608 or Env-Sw 708.

(b) The type of permit required shall be as specified in Env-Sw 302.

Env-Sw 502.02 Permit Application Requirements. The applicant for a P/T facility permit shall prepare the application in accordance with the following:

(a) Env-Sw 314 for a standard permit;

(b) Env-Sw 313 for an emergency permit;

(c) Env-Sw 312 for a research and development permit; and

(d) Env-Sw 311 for a permit-by-notification.

PART Env-Sw 503 SITING REQUIREMENTS

Env-Sw 503.01 Applicability.

(a) The siting requirements in this part shall apply to all P/T facilities, except:

- (1) Facilities that hold a permit issued under RSA 149-M prior to the 2005 readoption of the solid waste rules;
- (2) Permit-exempt facilities identified in Env-Sw 302.03, Env-Sw 508, Env-Sw 608, or Env-Sw 708;
- (3) Permit-by-notification facilities having an active life of 90 days or less;
- (4) Research and development permit facilities as provided by Env-Sw 312.02(b); and
- (5) Emergency permit facilities as provided by Env-Sw 313.02(b).

(b) The siting requirements in this part shall apply as the complement of siting requirements in Env-Sw 1003 for all facilities, Env-Sw 1102 for facilities having an active life longer than 90 days, and Env-Sw 1203 for permit-by-notification facilities.

Env-Sw 503.02 Setback Requirements.

(a) A P/T facility shall be sited no less than 50 feet from the footprint of any landfill not yet capped, except a lesser distance shall be permitted if the department determines based on information provided in the permit application and in an approved closure plan for the landfill that the lesser distance shall not prohibit compliance with Env-Sw 1003.01.

(b) A P/T facility shall be sited no less than 50 feet from any property line.

PART Env-Sw 504 DESIGN REQUIREMENTS

Env-Sw 504.01 Applicability.

- (a) The design requirements in this part shall apply to all P/T facilities, except:
- (1) Permit-exempt facilities identified in Env-Sw 302.03, Env-Sw 508, Env-Sw 608 or Env-Sw 708;
 - (2) Permit-by-notification facilities having an active life of 90 days or less;
 - (3) Research and development permit facilities as provided by Env-Sw 312.02(b); and
 - (4) Emergency permit facilities as provided by Env-Sw 313.02(b).

(b) The design requirements in this part shall apply as the complement of the design requirements in Env-Sw 1004 for all facilities, Env-Sw 1103 for facilities having an active life longer than 90 days, Env-Sw 1200 for permit-by-notification facilities and, depending on the type of waste managed, Env-Sw 900.

Env-Sw 504.02 General Design Requirements. A P/T facility shall be designed to operate in conformance with Env-Sw 505.

Env-Sw 504.03 Design Features and Appurtenances. The design of a P/T facility shall include each of the following features and appurtenances:

- (a) The same design features and appurtenances as specified for a C/S/T facility in Env-Sw 404.03, including storage areas and devices conforming to the requirements in Env-Sw 404.04 and Env-

Sw 404.05 for all processed or treated waste and related materials stored at the facility;

(b) Design features and appurtenances required to comply with Env-Sw 600, if facility operations involve composting methods;

(c) Design features and appurtenances required to comply with Env-Sw 700, if facility operations involve thermal combustion methods;

(d) Design features and appurtenances required to comply with Env-Sw 808, if facility operations involve landfill reclamation, or other landfilled waste recovery activities; and

(e) Design features and appurtenances required to comply with Env-Sw 900 as applicable to the type of waste(s) managed at the facility.

Env-Sw 504.04 Handling and Storage Areas for Waste and Materials. Areas used to handle and store each of the following waste groups and materials shall be designed in conformance with the requirements of Env-Sw 404.04 and Env-Sw 404.05:

(a) Incoming waste;

(b) Residual and bypass waste resulting from the operation of the facility;

(c) Waste-derived products produced by the facility; and

(d) Materials used by the facility to process or treat waste.

PART Env-Sw 505 OPERATING REQUIREMENTS

Env-Sw 505.01 Applicability.

(a) The operating requirements in this part shall apply to all P/T facilities, except:

(1) Permit-exempt facilities, as identified in Env-Sw 302.03, Env-Sw 508, Env-Sw 608, and Env-Sw 708;

(2) Permit-by-notification facilities having an active life of 90 days or less;

(3) Research and development permit facilities as provided by Env-Sw 312.02(b); and

(4) Emergency permit facilities as provided by Env-Sw 313.02(b).

(b) The operating requirements in this part shall apply as the complement of the operating requirements in Env-Sw 1005 for all facilities, Env-Sw 1105 for facilities with an active life longer than 90 days, Env-Sw 1204 for permit-by-notification facilities and, depending on the type of waste managed, Env-Sw 900.

Env-Sw 505.02 General Operating Objectives.

(a) Processing or treatment methods shall achieve one or both of the following results:

(1) Reduce, eliminate or change an undesirable characteristic of a waste and thereby render the waste more suitable for final disposal or further management at permitted facilities; or

(2) Produce a certified waste-derived product.

(b) Processing and treatment practices, by-products and end-products shall not pose a greater adverse impact to the environment, public health or safety than the impact posed by not changing the characteristics of the waste.

Env-Sw 505.03 Collection and Storage of Incoming Waste.

(a) Incoming waste shall be actively managed.

(b) Incoming waste shall be collected and, pending processing or treatment, shall be stored in conformance with the requirements of Env-Sw 405.

(c) A waste shall not be stored at a P/T facility without processing or treatment for a period of time which:

(1) Results in conditions adversely affecting the environment, public health or safety, including conditions that attract insects and vectors, generate odors or leachate, or have the potential to cause fire or explosion; or

(2) Exceeds the storage life of a waste destined for reuse such that a characteristic of the waste changes in a manner or to a degree that renders the waste non-reusable by the facility.

(d) An incoming waste identified in Env-Sw 900 shall be collected and stored in accordance with the applicable collection and storage requirements specified in Env-Sw 900.

Env-Sw 505.04 Management of Bypass and Residual Waste.

(a) Bypass and residual waste shall be stored and transferred in conformance with the requirements of Env-Sw 405.

(b) Bypass and residual waste shall be managed in accordance with Env-Sw 1105.10.

Env-Sw 505.05 Processing and Treatment Requirements.

(a) If the facility processes or treats a waste identified in Env-Sw 900, the facility shall process or treat the waste in accordance with the applicable requirements in Env-Sw 900.

(b) If facility operations involve solid waste composting methods, the operating requirements of Env-Sw 605 shall be met.

(c) If facility operations involve thermal combustion methods, the operating requirements of Env-Sw 705 shall be met.

(d) If facility operations involve landfill reclamation, the requirements of Env-Sw 808 shall be met.

Env-Sw 505.06 Management of Processed and Treated Waste.

(a) All processed or treated waste, including waste-derived products, shall be managed in a manner that meets the universal environmental performance requirements in Env-Sw 1002 and all other applicable local, state and federal requirements.

- (b) All processed or treated waste shall be stored and transferred in accordance with Env-Sw 405.

Env-Sw 505.07 Management of Waste-Derived Products.

- (a) The waste-derived products produced by a P/T facility shall not be distributed and used except in accordance with certification granted pursuant to Env-Sw 1500.
- (b) Quality assurance/quality control procedures shall be implemented to assure that the quality of all waste-derived products distributed by the facility meet a specification identified in the permit based on certification pursuant to Env-Sw 1500.
- (c) A waste-derived product that does not meet a required specification shall be deemed to be an off-specification material, fully subject to regulation by the solid waste rules as a waste.
- (d) Off-specification materials shall be managed in the same manner as:
 - (1) An incoming waste as prescribed by Env-Sw 505.03, if the waste will be reprocessed or retreated by the facility; or
 - (2) A residual or bypass waste as prescribed by Env-Sw 505.04, if the waste will not be reprocessed or retreated by the facility.
- (e) When an off-specification material is produced by a P/T facility, the permittee shall:
 - (1) Determine the likely cause and take appropriate steps to correct and avoid a recurrence of the problem;
 - (2) If the problem is determined to be operational, make the appropriate processing or treatment adjustments to correct the problem before reprocessing or retreating the off-specification material; and
 - (3) If the problem is due to characteristics of the waste feedstock that cannot be remedied by operational adjustments, manage the off-specification material and all unprocessed and untreated waste of similar characteristics as bypass waste pursuant to Env-Sw 505.04.
- (f) A P/T facility that produces waste-derived products for land application shall maintain records to identify the locations to which or persons to whom the materials are transferred.

Env-Sw 505.08 Public Benefit. In addition to the provisions for providing a substantial public benefit specified in Env-Sw 1005, the operation of a P/T facility shall be deemed to provide a substantial public benefit when facility operations satisfy the same operating conditions as specified in Env-Sw 405.04(a) through (c).

PART Env-Sw 506 CLOSURE REQUIREMENTS

Env-Sw 506.01 Applicability.

- (a) The closure requirements in this part shall apply to all P/T facilities, except:
 - (1) Permit-exempt facilities identified in Env-Sw 302.03, Env-Sw 508, Env-Sw 608, and Env-Sw 708;
 - (2) Permit-by-notification facilities having an active life of 90 days or less;

- (3) Research and development permit facilities as provided by Env-Sw 312.02(b); and
- (4) Emergency permit facilities as provided by Env-Sw 313.02(b).

(b) The closure requirements in this part shall apply as the complement of the closure requirements in Env-Sw 1006 for all facilities, Env-Sw 1106 for facilities having an active life longer than 90 days, Env-Sw 1205 for permit-by-notification facilities and, depending on the type of waste managed, Env-Sw 900.

Env-Sw 506.02 Removal of Processed Recyclable Materials. To comply with Env-Sw 1006.02(e), all processed recyclable materials shall be removed to an authorized facility and not remain at the closing facility under any claim of a permit exemption pursuant to Env-Sw 302.03.

Env-Sw 506.03 Land Application of Uncertified Waste-Derived Products. If a P/T facility distributes an uncertified waste-derived product, including an off-specification waste-derived product, for land application in New Hampshire, the facility closure requirements shall include all activities required to properly close the affected land application site(s).

Env-Sw 506.04 Removal of Residual Waste.

(a) Pursuant to Env-Sw 1006.02(b), all residual waste generated by a P/T facility, whether a solid waste or other, shall be removed from the facility in conformance with applicable law, rules and regulations.

(b) A P/T facility having generated a residual which is a hazardous waste shall comply with all applicable facility closure provisions of the hazardous waste rules, including the hazardous waste generator requirements in Env-Wm 500.

PART Env-Sw 507 PERMIT-BY-NOTIFICATION FACILITIES

Env-Sw 507.01 Purpose. The purpose of the rules in this part is to identify P/T facilities eligible for a permit-by-notification pursuant to Env-Sw 311.

Env-Sw 507.02 Infectious Waste Treatment Facilities. A treatment facility for infectious waste shall be eligible for a permit-by-notification, provided that:

- (a) The facility shall comply with Env-Sw 1200;
- (b) The facility shall be located at and owned and operated by a health care facility licensed pursuant to RSA 151;
- (c) The facility shall be a limited service area facility permitted to receive waste from the following sources only:
 - (1) The health care facility itself;
 - (2) Affiliated health care facilities; and
 - (3) Households within the community served by the health care facility;
- (d) The facility shall be located inside a building;

- (e) All wastes shall be managed by the facility in accordance with Env-Sw 904;
- (f) If the facility is an incinerator, the facility shall further comply with the requirements of Env-Sw 700;
- (g) The facility shall have assured access to an authorized facility for the transfer of all treated waste and residual waste generated by the facility;
- (h) The facility shall have assured access to an authorized facility to which it shall divert bypass wastes; and
- (i) If the facility is an incinerator, the resultant ash residue shall be managed in accordance with Env-Sw 902.

Env-Sw 507.03 Concrete Processing Facilities. A P/T facility which processes waste concrete under a permit-by-notification pursuant to Env-Wm 2207 as effective on October 29, 1997 shall continue to meet each of the following requirements for so long as the facility is active:

- (a) The facility shall comply with Env-Sw 1200;
- (b) The facility shall receive only source-separated concrete not contaminated with substances or materials foreign to new concrete, thus excluding concrete treated with lead based paint, concrete from holding tanks for chemicals, sludge or other waste, and concrete from any other source which, by its nature, might be a potential source of contamination;
- (c) The facility shall produce, by crushing, concrete aggregate materials certified for distribution and use pursuant to Env-Sw 1500;
- (d) All unprocessed waste, processed waste and waste-derived products at the facility shall be actively managed in conformance with Env-Sw 505, regardless of the duration of facility operations; and
- (e) All stockpiles of waste and waste-derived products shall be maintained free of plastic, wood and other foreign debris;

Env-Sw 507.04 P/T Facilities Producing Certified Waste-Derived Products. A P/T facility that collects and uses a processed non-select recyclable material to produce a waste-derived product certified pursuant to Env-Sw 1500 shall be eligible for a permit-by-notification pursuant to Env-Sw 311, provided that:

- (a) The facility shall comply with Env-Sw 1200;
- (b) The only waste received by the facility shall be the processed non-select recyclable material;
- (c) The facility shall not be a permit-exempt facility pursuant to Env-Sw 302.03 or Env-Sw 508, specifically including Env-Sw 508.06 and Env-Sw 508.07;
- (d) The facility shall identify and describe in the application for permit-by-notification:
 - (1) The type of processed non-select recyclable material to be used;
 - (2) The delivery and receipt specifications for the processed non-select recyclable material;
 - (3) The type of certified waste-derived product produced by the facility from the recyclable

material, including the applicable product specifications pursuant to Env-Sw 1500;

(4) The process used to produce the certified waste-derived product, including the quality assurance/quality control procedures employed;

(e) The facility shall operate in conformance with Env-Sw 505, regardless of the duration of facility operations; and

(f) The total quantity of processed non-select recyclable material stored at the facility as feedstock for the production of the certified waste-derived product shall not exceed 5000 cubic yards.

PART Env-Sw 508 PERMIT-EXEMPT FACILITIES

Env-Sw 508.01 Purpose. The purpose of the rules in this part is to identify P/T facilities which are permit-exempt, pursuant to Env-Sw 302.03(b)(2).

Env-Sw 508.02 General Conditions for Exemption.

(a) The P/T facilities described in this part shall be exempt from obtaining a permit, subject to the following conditions:

(1) The facility shall comply with:

a. The universal facility requirements in Env-Sw 1000; and

b. The waste specific requirements in Env-Sw 900, as applicable based on the type of waste managed by the facility; and

(2) All waste managed at the facility shall be actively managed.

(b) A permit exemption shall not affect a person's obligation to obtain all requisite federal, state or local permits, licenses or approvals, or to comply with all other applicable federal, state, district or local permits, ordinances, laws or approvals or conditions pertaining to the permit-exempt activities.

Env-Sw 508.03 Generator P/T Facilities. Subject to Env-Sw 708.02, no permit shall be required to process or treat a waste at its site of generation provided that:

(a) The waste generator shall own and operate the subject P/T facility;

(b) The subject P/T facility shall not receive, process, or treat waste generated at any location other than the property where the facility is located;

(c) The subject P/T facility shall not process or treat waste by combustion methods; and

(d) The facility shall not manage infectious waste, except in accordance with Env-Sw 508.04.

Env-Sw 508.04 Infectious Waste Bench Top Facilities. Subject to Env-Sw 508.02, no permit shall be required to treat infectious waste provided that:

(a) The subject treatment facility shall be located at, and owned and operated by, a health care facility licensed pursuant to RSA 151;

(b) The subject treatment facility shall be a limited service area facility permitted to receive

waste from the following sources only:

- (1) The health care facility itself;
 - (2) Affiliated health care facilities; and
 - (3) Households within the community served by the health care facility;
- (c) The waste treatment equipment shall be limited to a bench-top unit with a through-put rate of less than 30 pounds per hour or, if the unit is an autoclave, the chamber capacity shall be less than one cubic yard;
- (d) The facility shall be located inside a building;
- (e) All infectious waste shall be managed by the facility in accordance with Env-Sw 904;
- (f) The facility shall have assured access to a permitted waste management facility for the transfer of all treated waste and residual waste to be generated by the facility;
- (g) The facility shall have assured access to an authorized facility to which it will divert bypass wastes; and
- (h) If the facility is an incinerator, the resultant ash residue shall be managed in accordance with Env-Sw 902;

Env-Sw 508.05 Burn Piles. Subject to Env-Sw 508.02, no solid waste facility permit shall be required to open burn piles of brush, slash and untreated wood provided that:

- (a) The facility shall conform to all requirements of Env-A 1000;
- (b) The waste stockpile(s) shall conform to the requirements of Env-Sw 404.05; and
- (c) The ash residue shall be actively managed in accordance with Env-Sw 902.

Env-Sw 508.06 P/T Facilities Using Select Processed Recyclable Materials. Subject to Env-Sw 508.02, no permit shall be required to collect, store, and use a select processed recyclable material to produce any certified waste-derived product.

Env-Sw 508.07 P/T Facilities Using Non-Select Processed Recyclable Materials. Subject to Env-Sw 508.02, no permit shall be required to collect, store, and use a non-select processed recyclable material to produce a certified waste-derived product of a type specified in Env-Sw 1503.04, Env-Sw 1503.05 or Env-Sw 1503.07.

Env-Sw 508.08 Certified Testing Laboratories. Subject to Env-Sw 508.02, no permit shall be required to collect, store, and test samples of waste at certified laboratories, provided that:

- (a) The sample size is no greater than that which is necessary to successfully complete the required test procedure(s); and
- (b) All samples and residual sample materials are disposed in accordance with applicable statutes and rules, including but not necessarily limited to:
 - (1) RSA 149-M and the solid waste rules, if a solid waste and disposed in New Hampshire;

and

- (2) RSA 147-A and the hazardous waste rules, if a hazardous waste.

CHAPTER Env-Sw 600 COMPOSTING FACILITY REQUIREMENTS

Statutory Authority: RSA 149-M:7

PART Env-Sw 601 APPLICABILITY

Env-Sw 601.01 Applicability.

- (a) The rules in this chapter shall apply to processing/treatment (P/T) facilities that produce compost from solid waste, hereinafter referred to as composting facilities.
- (b) The requirements in this chapter shall apply as the complement of the P/T requirements in Env-Sw 500.

PART Env-Sw 602 PERMITTING REQUIREMENTS

Env-Sw 602.01 Permit Required.

- (a) A permit issued pursuant to the solid waste rules shall be required for construction, operation and closure of a composting facility, unless exempt pursuant to Env-Sw 302.03 or Env-Sw 608.
- (b) The type of permit required shall be as specified in Env-Sw 302.
- (c) If the facility also composts sludge or septage as defined by RSA 485-A:2, the facility shall comply with the permitting requirements in Env-Ws 800 or Env-Ws 1600, as applicable.

Env-Sw 602.02 Permit Application Requirements. The applicant for a composting facility permit shall prepare the application in accordance with:

- (a) Env-Sw 314 for a standard permit;
- (b) Env-Sw 313 for an emergency permit;
- (c) Env-Sw 312 for a research and development permit; and
- (d) Env-Sw 311 for a permit-by-notification.

PART Env-Sw 603 SITING REQUIREMENTS

Env-Sw 603.01 Applicability.

- (a) The siting requirements in this part shall apply to all composting facilities, except:
- (1) Facilities that hold a permit issued under RSA 149-M prior to the 2005 readoption of the solid waste rules;
 - (2) Permit-exempt facilities identified in Env-Sw 302.03 or Env-Sw 608;
 - (3) Permit-by-notification facilities having an active life of 90 days or less;

- (4) Research and development permit facilities by Env-Sw 312.02(b); and
- (5) Emergency permit facilities as provided by Env-Sw 313.02(b).

(b) The siting requirements in this part shall apply as the complement of siting requirements in Env-Sw 1003 for all facilities, Env-Sw 1102 for facilities having an active life longer than 90 days, Env-Sw 1203 for permit-by-notification facilities, Env-Sw 503 and, for facilities also composting sludge or septage as defined by RSA 485-A:2, Env-Ws 800 or Env-Ws 1600, as applicable.

Env-Sw 603.02 Siting Requirements. A composting facility which has the potential to discharge leachate to the ground or generate odors shall comply with the siting standards for landfills, as specified in Env-Sw 804.

PART Env-Sw 604 DESIGN REQUIREMENTS

Env-Sw 604.01 Applicability.

- (a) The design requirements in this part shall apply to all composting facilities, except:
 - (1) Permit-exempt facilities identified in Env-Sw 302.03 or Env-Sw 608;
 - (2) Permit-by-notification facilities having an active life of 90 days or less;
 - (3) Research and development permit facilities as provided by Env-Sw 312.02(b); and
 - (4) Emergency permit facilities as provided by Env-Sw 313.02(b).

(b) The design requirements in this part shall apply as the complement of the design requirements in Env-Sw 1004 for all facilities, Env-Sw 1103 for facilities having an active life longer than 90 days, Env-Sw 1200 for permit-by-notification facilities, Env-Sw 504 and, for facilities also composting sludge or septage as defined by RSA 485-A:2, Env-Ws 800 or Env-Ws 1600, as applicable.

Env-Sw 604.02 General Design Requirements. A composting facility shall be designed to operate in conformance with Env-Sw 605.

Env-Sw 604.03 Process Design Requirements.

- (a) The composting process shall be designed to operate in a manner to meet the pathogen reduction criteria specified in 40 CFR ~~Part~~ 503, such as, but not limited to, one of the following methods:
 - (1) Using the windrow composting method, such that:
 - a. The solid waste shall be maintained under aerobic conditions during the compost process;
 - b. A minimum of 5 turnings shall be required during a period of 15 consecutive days when the temperature of the mixture shall not be less than 55°C (131°F) at 6 to 8 inches below the surface of the pile; and
 - c. In turning the compost pile, the exterior of the compost pile shall be turned into the interior of the compost pile to assure that all solid waste is exposed to composting conditions;

- (2) Using the aerated static pile composting method, the compost pile shall be insulated and a temperature of not less than 55°C (131°F) shall be maintained throughout the compost pile for at least 3 consecutive days; or
 - (3) Using the enclosed vessel composting method, the mixture shall be maintained at a temperature of not less than 55°C (131°F) throughout the mixture for at least 3 consecutive days.
- (b) The composting facility shall have sufficient temperature monitoring to ensure that the pathogen reduction criteria specified in 40 CFR 503 are met, such as the following:
- (1) For a windrow or an aerated static pile process, monitoring 6 to 8 inches and 18 to 24 inches below the pile surface;
 - (2) For an aerated static pile process, monitoring 6 to 8 inches and 18 to 24 inches from the outlet of the aeration pipe; and
 - (3) For an enclosed vessel system, monitoring 6 to 8 inches and 18 to 24 inches inside the vessel wall and 6 to 8 inches from the aeration piping when operating in the positive aeration mode.
- Env-Sw 604.04 Waste Collection, Storage and Processing Area Design Requirements.
- (a) Waste collection, storage and processing areas shall be designed in conformance with Env-Sw 504.
 - (b) Areas used for windrows and aerated static piles shall conform to the same design requirements as specified for waste stockpiles in Env-Sw 404.05.
 - (c) Facility design shall include provisions to limit the production and off-site dispersal of odors.

PART Env-Sw 605 OPERATING REQUIREMENTS

Env-Sw 605.01 Applicability.

- (a) The operating requirements in this part shall apply to all composting facilities, except:
 - (1) Permit-exempt facilities identified in Env-Sw 302.03 or Env-Sw 608;
 - (2) Permit-by-notification facilities having an active life of 90 days or less;
 - (3) Research and development permit facilities as provided by Env-Sw 312.02(b);
 - (4) Emergency permit facilities as provided by Env-Sw 313.03(b).
- (b) The operating requirements in this part shall apply as the complement of the operating requirements in Env-Sw 1005 for all facilities, Env-Sw 1105 for facilities with an active life longer than 90 days, Env-Sw 1204 for permit-by-notification facilities, Env-Sw 505 and, for facilities also composting sludge or septage as defined by RSA 485-A:2, Env-Sw 800 or Env-Sw 1600, as applicable.

Env-Sw 605.02 General Operating Requirements.

(a) A composting facility shall operate in a manner to meet the pathogen reduction design criteria, as specified in Env-Sw 604.03(a), and consistently produce either a Class AA or Class A compost as specified by Env-Sw 605.05.

(b) Temperature shall be monitored as specified in Env-Sw 604.03(b) and shall be recorded daily.

(c) Operational records, in conformance with Env-Sw 1105.06, shall include:

- (1) The source, description and quantity of all materials received at the facility;
- (2) For facilities producing other than Class AA compost, a sampling log, which shall identify:

- a. The date and time of sampling;
- b. The person taking the sample;
- c. The sampling method and location;
- d. The lab to which the samples were sent for analysis; and
- e. The results of the analysis, including quality assurance and quality control provisions;

- (3) A temperature data log, which shall identify:

- a. The date, time and location of data collection;
- b. The person collecting the data;
- c. Calibration data for the temperature device;
- d. The data collection method; and
- e. The data;

- (4) Quantity of bypass waste removed prior to composting;

- (5) Quantity of non-compostables and other residual waste removed after composting; and

- (6) Locations to which or persons to whom Class A compost is distributed.

(d) All wastes received by the facility shall be inspected to identify and remove wastes that are not suitable for composting, including:

- (1) Wastes that are not organic in nature; and

- (2) Wastes which are prohibited wastes as specified in (e) below and any other waste having the potential to adversely affect the capabilities for producing either a Class AA or Class A compost.

(e) A composting facility shall not receive or compost the following types of waste:

- (1) Asbestos;
- (2) Batteries;
- (3) Explosive or contained gaseous wastes;
- (4) White goods;
- (5) Construction and demolition debris;
- (6) Bulky wastes;
- (7) Recyclable materials other than paper or cardboard products certified for distribution and use as a composting bulking agent pursuant to Env-Sw 1500;
- (8) Household hazardous waste and hazardous waste;
- (9) Liquid wastes;
- (10) Infectious waste or treated infectious waste;
- (11) Animal carcasses or deceased persons;
- (12) Contaminated soils or absorbent media;
- (13) Radioactive materials as defined and regulated by the New Hampshire rules for the control of radiation, He-P 2000 and He-P 4000; and
- (14) Sludge or septage as defined by RSA 485-A:2, except in accordance with a permit issued pursuant to RSA 485-A, as applicable.

Env-Sw 605.03 Product Quality Assurance/Quality Control Requirements. The following requirements shall apply to facilities producing other than a Class AA compost, except for small food waste composting facilities permitted pursuant to Env-Sw 607.02 which compost sludge in compliance with Env-Ws 800:

- (a) Sampling and analysis of the compost shall be performed in accordance with a quality assurance/quality control plan (QA/QC plan) which:
 - (1) Conforms to the minimum requirements specified by (b) below;
 - (2) Assures all compost distributed by the facility meets the standards set forth in Env-Sw 605.05; and
 - (3) Is approved by the department as a condition of the permit.
- (b) Except as provided by (c) below, sampling and analysis shall occur no less frequently than specified in Table 600-I:

Table 600-I Sampling and Analysis of Compost	

Average Compost Produced (Dry Tons/Day)	ANALYSES	
	Total Solids; Total Volatile Solids; Total Kjeldahl Nitrogen, Ammonia, Nitrate & Nitrite; Total Phosphorous; Total Potassium; pH; Heavy Metals (Cadmium, Total Chromium, Copper, Lead, Mercury, Nickel Zinc)	Total Polychlorinated Biphenyls
Less than 1	Semiannually, with 6 grab samples composited monthly	Annually, with 12 grab samples composited monthly
1 to 10	Monthly, with 4 grab samples composited weekly	Semiannually, with 6 grab samples composited monthly
More than 10	Weekly, with 5 grab samples composited daily	Semiannually, with 6 grab samples composited monthly

(c) By obtaining a type I-B permit modification pursuant to Env-Sw 315, the permittee may reduce the sampling and analysis frequency in (b) above to the frequencies specified in 40 CFR 503 after 3 years of meeting the quality criteria specified in Env-Sw 605.05;

(d) The results of laboratory analyses shall be reported to the department in accordance with Env-Sw 303 on a quarterly basis for those facilities that produce at least one dry ton of compost per day and on a semi-annual basis for those facilities that produce less than one dry ton of compost per day;

(e) Reporting of the analyses shall include copies of the laboratory reports, with all results reported on a dry weight basis except pH, total solids and total volatile solids, and a narrative of the findings, trends and results;

(f) Analysis of nitrogen series, including total kjeldahl nitrogen (TKN), ammonia (NH₃), nitrite (NO₂), and nitrate (NO₃), shall be performed on either fresh grab samples or grab samples that are immediately frozen and remain frozen throughout the pre-analysis storage period;

(g) Additional analyses for salts or other pollutants shall be required for the compost if, during the permit application process, the proposed operating procedures and waste through-put characterization indicate that salt or other pollutants are likely to be present in the compost; and

(h) If the compost is produced using septage or sludge, the pathogen testing requirements in 40 CFR 503.32 shall apply.

Env-Sw 605.04 Compost Classes.

(a) Class AA compost shall be compost meeting the definition in Env-Sw 102.32.

(b) Class A compost shall be compost meeting the criteria specified in Env-Sw 605.05.

(c) All other compost shall be designated “off-spec compost.”

Env-Sw 605.05 Class A Compost. Compost shall be designated as Class A compost if it meets the

following criteria:

- (a) The finished compost shall be sufficiently stable that it shall not reheat upon standing to greater than 20°C above ambient temperature;
- (b) The concentration of heavy metals in the finished compost shall not exceed the ceiling concentrations provided in Env-Ws 800 for sludge and sludge mixtures, determined on the basis of representative samples using EPA test procedures in EPA manual SW 846;
- (c) The finished compost shall contain less than one ppm dry weight total polychlorinated biphenyls (PCB);
- (d) The finished compost shall not exceed 10 millimeters (0.39 inch) particle size;
- (e) The finished compost shall be produced from a composting process which:
 - (1) Has a minimum retention time, including active composting and curing, of 90 days; or
 - (2) Achieves 60 percent reduction in organic matter;
- (f) The finished compost shall contain no glass, metal or plastic of size or shape that could cause injury;
- (g) The finished compost shall contain no more than 2% non-organic and non-mineral material not including sand and other inorganic soils, by weight; and
- (h) If the finished compost is produced using sludge or septage, the Class A pathogen reduction requirements in 40 CFR 503.32(a) shall apply.

Env-Sw 605.06 Uses, Class AA Compost. Pursuant to Env-Sw 1503.10(a), Class AA compost shall be certified for distribution and use as compost to be applied to land, without restriction.

Env-Sw 605.07 Uses, Class A Compost. Pursuant to Env-Sw 1503.10(b) and (c), Class A compost shall be certified for distribution and use as compost to be applied to land, except where crops are grown for direct human consumption. However, Class A compost may be used on land where food chain crops are grown, such as crops that are fed to livestock but not consumed directly by humans.

Env-Sw 605.08 Uses, Off-Specification Compost.

- (a) Except as provided in (b) below, compost which is not Class AA or Class A shall be:
 - (1) Managed as residual waste in accordance with the facility's residuals management plan; and
 - (2) Not certified in accordance with Env-Sw 1500 for distribution and use as compost to be applied to land.
- (b) Compost that meets all of the standards of a Class A compost, except that its particle size exceeds 10 millimeters (0.39 inch) shall be certified for distribution and use as compost in landfill cover systems, pursuant to Env-Sw 1500.

Env-Sw 605.09 Compost Identification.

- (a) Prior to distribution, all Class A compost shall be clearly marked to:
 - (1) Show its classification; and
 - (2) Identify the following:
 - a. Type of waste from which it was derived;
 - b. Use restrictions;
 - c. Recommended safe uses;
 - d. Application rates; and
 - e. Maximum allowable contaminant levels as provided in Env-Sw 605.05 and average contaminant concentrations to date.
- (b) The requirements in (a) above shall apply to both compost distributed in bulk and in bag form.

Env-Sw 605.10 Out-of-State Compost.

- (a) Compost produced out-of-state which does not meet the criteria for Class AA or Class A compost or which is produced by a facility that has not complied with the regulatory requirements of the state in which it is located, shall not be certified for distribution and use pursuant to Env-Sw 1500 and therefore shall be deemed a solid waste upon entering New Hampshire and shall be managed as such.
- (b) Any compost marketed in New Hampshire that is not marked in accordance with Env-Sw 605.09 shall be deemed to be a solid waste regardless of its state of origin and shall be managed as such.

PART Env-Sw 606 CLOSURE REQUIREMENTS

Env-Sw 606.01 Applicability.

- (a) The closure requirements in this part shall apply to all composting facilities, except:
 - (1) Permit-exempt facilities identified in Env-Sw 302.03 and Env-Sw 608;
 - (2) Permit-by-notification facilities having an active life of 90 days or less;
 - (3) Research and development permit facilities as provided by Env-Sw 312.02(b); and
 - (4) Emergency permit facilities as provided by Env-Sw 313.02(b).
- (b) The closure requirements in this part shall apply as the complement of the closure requirements in Env-Sw 1006 for all facilities, Env-Sw 1106 for facilities having an active life longer than 90 days, Env-Sw 1205 for permit-by-notification facilities, Env-Sw 506 and, for facilities also composting sludge or septage as defined by RSA 485-A:2, Env-Ws 800 or Env-Ws 1600, as applicable.

Env-Sw 606.02 Closure Requirements.

- (a) To comply with Env-Sw 1006.02(e), all finished compost which is certified for distribution and use shall be removed to places where it shall be used accordingly or removed to an authorized

facility.

(b) To comply with Env-Sw 1006.02(b), all unfinished compost shall be removed to an authorized facility to be finished or disposed.

(c) To comply with Env-Sw 1006.02(e), no waste or compost shall remain at the site following closure under a claim of permit exemption pursuant to Env-Sw 302.03.

PART Env-Sw 607 PERMIT-BY-NOTIFICATION FACILITIES

Env-Sw 607.01 Purpose. The purpose of the rules in this part is to identify composting facilities eligible for a permit-by-notification pursuant to Env-Sw 311.

Env-Sw 607.02 Small Food Waste Composting Facilities. A facility which composts food waste shall be eligible for a permit-by-notification pursuant to Env-Sw 311, provided that the facility meets each of the following requirements:

- (a) The facility shall comply with the requirements of Env-Sw 1200;
- (b) The facility shall restrict its operations to composting one or more of the food wastes specified in (e) below, mixed with yard waste, animal manure, farming crop residuals, sludge as defined in RSA 485-A:2, XI-a, an approved bulking agent as defined in Env-Sw 102.06, or a combination thereof;
- (c) If the facility composts sludge, it shall hold a valid permit issued pursuant to Env-Sw 800;
- (d) The food waste portion of the compost mixture described in (b) above shall be no more than 20% of the entire mixture by volume;
- (e) The facility shall receive and compost the following types of food waste only:
 - (1) Vegetable matter, including produce, and bakery wastes generated by retail food sales outlets;
 - (2) Food preparation waste from commercial and institutional kitchens that is limited to vegetable matter, edible vegetable oils, and bakery wastes; and
 - (3) Vegetable wastes generated as byproducts of food processing operations, including canning and freezing;
- (f) The facility shall not receive or compost:
 - (1) Dairy products and their derivatives;
 - (2) Meat;
 - (3) Meat byproducts; or
 - (4) Non-food matter other than the non-food wastes allowed pursuant to (b) above, for instance:
 - a. Plastic and paper bags;
 - b. Plastic and paper wrappings;

- c. Plastic and paper ties; and
 - d. String;
- (g) No food waste shall be left uncovered at the facility for more than 2 hours;
 - (h) Food waste not incorporated into working compost shall be stored at the facility:
 - (1) No longer than 24 hours from receipt; and
 - (2) In a closed container controlling the dispersal of odors and preventing the attraction of birds, insects, rodents and other vectors;
 - (i) Access to windrows by compost turning equipment shall be maintained on a year round basis, including during periods of snowmelt, spring thaw, and high precipitation;
 - (j) Supplies of water and pumping capabilities shall be available at the facility and used to keep the compost moist;
 - (k) If manure is a primary constituent of the compost, sufficient quantities of an approved bulking agent shall be incorporated at all times to:
 - (1) Assure that the compost shall not become waterlogged; and
 - (2) Prevent the development of anaerobic conditions in the compost;
 - (l) Compost windrows shall be turned sufficiently often to maintain aerobic conditions at all times throughout each windrow;
 - (m) Prior to distribution and use, the compost shall be matured and stabilized to a condition which shall not cause it to re-heat when piled;
 - (n) Prior to distribution and use, the finished compost shall be determined and certified by the permittee to meet the specifications of:
 - (1) Class AA compost, if no sludge has been incorporated and the compost otherwise meets the definition of a Class A compost as provided by Env-Sw 102.32; or
 - (2) Class A compost, if sludge has been incorporated and, based on the testing results obtained pursuant to a permit issued for the facility pursuant to RSA 485-A and Env-Ws 800, the compost meets Class A standards;
 - (o) Following the cessation of facility operations or any other trigger event for closure as provided in Env-Sw 1006, the permittee shall close the facility in accordance with Env-Sw 1006 and Env-Sw 606, and Env-Ws 800, as applicable; and
 - (p) Following closure, the permittee shall certify to the department in writing that the facility has been closed as required in (o) above, specifically including certification that the following conditions are met:
 - (1) All waste, including bypass and residual waste and unfinished compost, has been removed from the facility to an authorized facility for disposal or further management;

(2) All finished compost has been removed from the facility to locations that use or distribute the finished compost or disposed at an authorized facility; and

(3) The site has been cleaned pursuant to Env-Sw 1006.

PART Env-Sw 608 PERMIT-EXEMPT FACILITIES

Env-Sw 608.01 Purpose. The purpose of the rules in this part is to identify composting facilities which are permit-exempt, pursuant to Env-Sw 302.03(b)(2).

Env-Sw 608.02 General Conditions for Exemption.

(a) The composting facilities described in this part shall be exempt from obtaining a permit, subject to the following conditions:

(1) The facility shall comply with the universal facility requirements in Env-Sw 1000; and

(2) All waste managed at the facility shall be actively managed.

(b) A permit exemption shall not affect a person's obligation to obtain all requisite federal, state or local permits, licenses or approvals, or to comply with all other applicable federal, state, district or local permits, ordinances, laws or approvals or conditions pertaining to the permit-exempt activities.

Env-Sw 608.03 Generator Composting Facilities.

(a) Subject to Env-Sw 608.02, no permit shall be required to compost the following wastes and materials at the waste generation site:

(1) Yard waste or farming crop residuals;

(2) Food waste limited to vegetable matter, edible vegetable oils and bakery waste;

(3) Animal manure;

(4) An approved bulking agent as defined in Env-Sw 102; or

(5) Any combination of (1) - (4) above.

(b) The facilities described in (a) above shall include:

(1) Composting operations at a private home for food waste generated by the home kitchen;

(2) Composting operations at schools and other institutions, for food waste generated by cafeteria(s) at the institution; and

(3) Farm based composting operations for food waste generated by the farm and farming crop residuals.

CHAPTER Env-Sw 700 INCINERATION FACILITY REQUIREMENTS

Statutory Authority: RSA 149-M:7

PART Env-Sw 701 APPLICABILITY

Env-Sw 701.01 Applicability.

(a) The rules in this chapter shall apply to processing/treatment (P/T) facilities that incinerate solid waste, including waste-derived fuel not certified for distribution and use as fuel pursuant to Env-Sw 1500.

(b) The requirements in this chapter shall apply as the complement of the P/T facility requirements in Env-Sw 500.

PART Env-Sw 702 INCINERATOR PERMIT APPLICATION REQUIREMENTS

Env-Sw 702.01 Permit Required.

(a) A permit issued pursuant to the solid waste rules shall be required for construction, operation and closure of an incinerator, unless exempt pursuant to Env-Sw 302.03 or Env-Sw 708.

(b) The type of permit required shall be as specified in Env-Sw 302.

Env-Sw 702.02 Permit Application Requirements. Incinerator permit applications shall conform to the permit application requirements in:

- (a) Env-Sw 314 for a standard permit;
- (b) Env-Sw 313 for an emergency permit;
- (c) Env-Sw 312 for a research and development permit; and
- (d) Env-Sw 311 for a permit-by-notification.

PART Env-Sw 703 SITING REQUIREMENTS

Env-Sw 703.01 Siting Requirements. Incinerators shall be sited in conformance with Env-Sw 1003, Env-Sw 1102, Env-Sw 1203, and Env-Sw 503, as applicable.

PART Env-Sw 704 DESIGN REQUIREMENTS

Env-Sw 704.01 Applicability.

(a) The design requirements in this part shall apply to all incinerators, except:

- (1) Permit-exempt incinerators identified in Env-Sw 302.03 or Env-Sw 708;
- (2) Permit-by-notification incinerators having an active life of 90 days or less;
- (3) Research and development incinerators as provided by Env-Sw 312.02(b); and
- (4) Emergency permit incinerators as provided by Env-Sw 313.02(b).

(b) The design requirements in this part shall apply as the complement of the design requirements in Env-Sw 1004 for all facilities, Env-Sw 1103 for facilities having an active life longer

than 90 days, Env-Sw 1200 for permit-by-notification facilities, Env-Sw 504, and, depending on the type of waste managed, Env-Sw 900.

Env-Sw 704.02 General Design Requirements. An incinerator shall be designed to operate in conformance with Env-Sw 705.

Env-Sw 704.03 Combustion Unit. The design of the combustion unit shall comply with state rules and federal regulations for controlling air pollution, including RSA 125-C.

PART Env-Sw 705 OPERATING REQUIREMENTS

Env-Sw 705.01 Applicability.

(a) The operating requirements in this part shall apply to all incinerators, except:

- (1) Permit-exempt incinerators identified in Env-Sw 302.03 or Env-Sw 708;
- (2) Permit-by-notification incinerators, having an active life of 90 days or less;
- (3) Research and development permit incinerators, as provided by Env-Sw 313.02(b); and
- (4) Emergency permit incinerators, as provided by Env-Sw 313.02(b).

(b) The operating requirements in this part shall apply as the complement of the operating requirements in Env-Sw 1005 for all facilities, Env-Sw 1105 for facilities having an active life longer than 90 days, Env-Sw 1204 for permit-by-notification facilities, Env-Sw 505 and, depending on the type of waste managed, Env-Sw 900.

Env-Sw 705.02 General Operating Requirements. The operation of an incinerator shall comply with state rules and federal regulations for controlling air pollution, including RSA 125-C.

Env-Sw 705.03 Additional Signs and Postings.

(a) The permittee shall post signs, at a conspicuous place or places adjacent to the incinerator, stating the following information based on the provisions of the facility permit:

- (1) Authorized wastes;
- (2) Prohibited wastes;
- (3) Ash residue and waste storage limitations; and
- (4) Instructions for ash residue storage and disposal.

(b) Emergency procedures, including the telephone number for emergency assistance, shall be posted at a conspicuous place or places adjacent to the incinerator.

(c) A copy of the operating instructions manual for the combustion unit shall be maintained in close proximity to the incinerator so as to be readily available for reference.

Env-Sw 705.04 Combustion Requirements. An incinerator shall combust waste in a manner and to a degree that results in an ash residue that contains little to no combustible materials.

Env-Sw 705.05 Ash Residue Management. Ash residue shall be managed in accordance with Env-Sw 902.

PART Env-Sw 706 CLOSURE REQUIREMENTS

Env-Sw 706.01 Closure Requirements. Incinerators shall be closed in accordance with:

- (a) Env-Sw 1006;
- (b) Env-Sw 1106;
- (c) Env-Sw 506; and
- (d) Env-Sw 900, as applicable based on type of waste.

PART Env-Sw 707 PERMIT-BY-NOTIFICATION INCINERATORS

Env-Sw 707.01 Purpose. The purpose of the rules in this part is to identify incinerators eligible for a permit-by-notification pursuant to Env-Sw 311.

Env-Sw 707.02 Infectious Waste Incinerator. An infectious waste incinerator that meets the requirements in Env-Sw 507.02 shall be eligible for a permit-by-notification.

PART Env-Sw 708 PERMIT-EXEMPT INCINERATORS

Env-Sw 708.01 Purpose. The purpose of the rules in this part is to identify incinerators which are permit-exempt, pursuant to Env-Sw 302.03(b)(2).

Env-Sw 708.02 General Conditions for Exemption.

(a) The incinerators described in this part shall be exempt from obtaining a permit, subject to the following conditions:

- (1) The facility shall comply with:
 - a. The universal facility requirements in Env-Sw 1000; and
 - b. The waste specific requirements in Env-Sw 900, as applicable based on the type of waste managed by the facility; and
- (2) All waste managed at the facility shall be actively managed.

(b) A permit exemption shall not affect a person's obligation to obtain all requisite federal, state or local permits, licenses or approvals, or to comply with all other applicable federal, state, district or local permits, ordinances, laws or approvals or conditions pertaining to the permit-exempt activities.

Env-Sw 708.03 Animal Crematoriums. Subject to Env-Sw 708.02, no permit shall be required for an animal crematorium, provided that:

- (a) The facility shall be used only for the incineration of animal carcasses not classified as infectious waste under Env-Sw 904.01(a)(5);
- (b) The combustion unit(s) shall have an operational capacity of less than 200 pounds per hour;

and

- (c) The facility shall not incinerate more than 1,000 pounds per week.

CHAPTER Env-Sw 800 LANDFILL REQUIREMENTS

Statutory Authority: RSA 149-M:7

PART Env-Sw 801 APPLICABILITY

Env-Sw 801.01 Applicability. The rules in this chapter shall apply to landfills.

PART Env-Sw 802 PERMITTING REQUIREMENTS

Env-Sw 802.01 Permit Required.

(a) A permit issued pursuant to the solid waste rules shall be required for construction, operation and closure of a landfill, unless exempt pursuant to Env-Sw 302.

- (b) The type of permit required shall be as specified in Env-Sw 302.

Env-Sw 802.02 Permit Application Requirements. The applicant for a landfill permit shall prepare the application in accordance with:

- (a) Env-Sw 314 for a standard permit;
- (b) Env-Sw 313 for an emergency permit;
- (c) Env-Sw 312 for a research and development permit; and
- (d) Env-Sw 311 for a permit-by-notification.

PART Env-Sw 803 FEDERAL REQUIREMENTS FOR MSW LANDFILLS

Env-Sw 803.01 Purpose. The purpose of the rules in this part is to identify facilities subject to the federal requirements for municipal solid waste landfills (MSWLFs) in 40 CFR 258.

Env-Sw 803.02 Applicability.

(a) The rules in Env-Sw 803.03 identify the circumstances under which a MSWLF shall be subject to the requirements in 40 CFR 258.

(b) The rules in Env-Sw 803.04 identify the criteria in 40 CFR 258 and the solid waste rules which apply to MSWLFs which are subject to 40 CFR 258.

Env-Sw 803.03 Applicability of Federal Law. In order to determine whether a MSWLF is subject to the requirements of 40 CFR 258, the following provisions and definitions from 40 CFR 258.1 and 40 CFR 258.2 shall apply:

- (a) MSWLFs that stopped receiving waste on or before October 9, 1991 shall be exempt from the requirements of 40 CFR 258;
- (b) MSWLFs that received 100 tons per day of waste or less after October 9, 1991 and stopped

receiving waste prior to April 9, 1994 shall be exempt from the requirements of 40 CFR 258 except for the final cover requirements specified in 40 CFR 258.60(a) provided the final cover was fully installed by October 9, 1994. If the final cover was not fully installed by October 9, 1994, the MSWLFs shall be subject to all requirements of 40 CFR 258;

(c) MSWLFs that received 100 tons per day of waste or less on or after April 9, 1994 shall be subject to all requirements of 40 CFR 258;

(d) MSWLFs that received greater than 100 tons per day of waste after October 9, 1991 and stopped receiving waste prior to October 9, 1993 shall be exempt from the requirements of 40 CFR 258 except for the final cover requirements specified in 40 CFR 258.60(a) provided the final cover was fully installed by October 9, 1994. If the final cover was not fully installed by October 9, 1994, the MSWLFs shall be subject to all requirements of 40 CFR 258;

(e) MSWLFs that received greater than 100 tons per day of waste on or after October 9, 1993 shall be subject to all requirements of 40 CFR 258; and

(f) In determining the scope and applicability of the federal requirements, the definitions specified in 40 CFR 258.2 for the following terms shall be used:

- (1) Active life;
- (2) Active portion;
- (3) Director;
- (4) Household waste;
- (5) Industrial solid waste;
- (6) Owner;
- (7) Saturated zone;
- (8) Sludge;
- (9) Solid waste;
- (10) State;
- (11) State director; and
- (12) Waste management unit boundary.

Env-Sw 803.04 Standards Specific to MSWLFs Subject to 40 CFR 258.

(a) Any MSWLF that is identified by Env-Sw 803.03 as being subject to 40 CFR 258 shall comply with the following provisions of 40 CFR 258 in addition to the requirements in Env-Sw 900, Env-Sw 1000, Env-Sw 1100, Env-Sw 1400, Env-Sw1600, and this chapter:

- (1) Location restrictions specified in 40 CFR 258.10 through 258.16;
- (2) Operating criteria specified in 40 CFR 258.20, 258.21, 258.23, 258.24, 258.28 and

258.29;

(3) Design criteria specified in 40 CFR 258.40;

(4) Groundwater monitoring and corrective action requirements specified in 40 CFR 258.53 through 258.58;

(5) Closure and post-closure requirements specified in 40 CFR 258.60(i) and 258.61; and

(6) Financial assurance mechanisms specified in 40 CFR 258, subpart G.

(b) The provisions specified in (a)(1) through (a)(6) above shall not be waived under Env-Sw 202.

PART Env-Sw 804 SITING REQUIREMENTS

Env-Sw 804.01 Applicability.

(a) The siting requirements in this part shall apply to all landfills except:

(1) Facilities that hold and continue to operate under a permit issued pursuant to RSA 149-M prior to the 2005 readoption of the solid waste rules and any facilities scheduled to close;

(2) Permit-exempt facilities identified in Env-Sw 302.03 or Env-Sw 810;

(3) Permit-by-notification facilities having an active life of 90 days or less;

(4) Research and development permit facilities, as provided by Env-Sw 312.02(b); and

(5) Emergency permit facilities, as provided by Env-Sw 313.02(b).

Env-Sw 804.02 Groundwater Protection Standards.

(a) A landfill shall not be sited within the well head protection area of a community or non-community, non-transient water supply well system as delineated in the department's source water protection area inventory.

(b) A landfill and all associated leachate storage units shall be located only in areas where groundwater monitoring for release detection, characterization and remediation can be conducted prior to a release having an adverse affect on a water supply.

(c) Identification of the areas cited in (b) above shall be based upon a hydrogeologic investigation which provides all site specific information required to model the pre-construction and post-construction groundwater and surface water regimen.

(d) The base of the bottom liner system, or the base of the facility if unlined, shall be a minimum of 6 feet above the seasonal high groundwater table and the confirmed bedrock surface.

Env-Sw 804.03 Surface Water Protection Standards.

(a) The location of a landfill relative to surface water resources shall comply with the requirements of RSA 485-A.

(b) A landfill and all associated leachate storage units shall be located only in areas where potential adverse effects to surface water quality, due to erosion, sedimentation, siltation, flood, or discharge of contaminants, can be prevented or minimized and mitigated by facility design.

(c) Identification of the areas cited in (b) above shall be based on a thorough hydrogeological investigation to demonstrate the following:

- (1) Compliance with Env-Sw 804.02;
- (2) That engineering design measures can be incorporated to control erosion, sedimentation and siltation; and
- (3) The potential release of contaminants to surface waters can be prevented, attenuated or otherwise remediated.

(d) The footprint of a landfill shall not be located within 200 feet of any perennial surface water body, measured from the closest bank of a stream and closest shore of a lake, as applicable.

(e) The footprint of a landfill shall not be located within 200 feet upgradient and 100 feet downgradient of a wetland within the jurisdiction of RSA 482-A, excluding any drainage appurtenances related to the site, that is not allowed to be filled under the authority of RSA 482-A.

(f) The footprint of a landfill shall not be located within 1,000 feet upgradient of a surface water reservoir or intake used for a community drinking water supply.

(g) The footprint of a landfill shall not be located within the 100-year flood hazard zone.

Env-Sw 804.04 Set-back Requirements.

(a) There shall be a minimum 100-foot buffer strip between the property line and the footprint of the landfill.

(b) There shall be a minimum 300-foot buffer between the footprint of the landfill and Class I and Class II roads and a minimum 100-foot buffer between the footprint of the landfill and Class III through Class VI roads.

(c) There shall be a minimum distance of 500 feet maintained between the footprint of the landfill and all existing residences not owned by the applicant.

(d) The footprint of a landfill receiving putrescible wastes shall not be located within 10,000 feet of any airport runway used by turbojet aircraft or 5,000 feet of any airport runway used by only piston-type aircraft.

Env-Sw 804.05 Geologic Siting Limitations.

(a) The footprint of a landfill and associated leachate storage units shall be a minimum of 200 feet from faults that have had displacement in Holocene time, meaning from Pleistocene to present or within the last 11,000 years.

(b) No landfill footprint or associated leachate storage units shall overlie an area underlain by karstified dolomite or limestone or an area susceptible to mass movements of earth material such as landslides, rockfalls, mudslides, slumps, earth flows, or subsidence.

Env-Sw 804.06 Other Siting Limitations. A new landfill shall be sited only on property which is owned by the permittee.

PART Env-Sw 805 DESIGN AND CONSTRUCTION REQUIREMENTS

Env-Sw 805.01 Applicability.

(a) The design requirements in this part shall apply to all landfills, except:

- (1) Portions of existing permitted facilities which were constructed or approved for construction as of October 29, 1997;
- (2) Permit-exempt facilities identified in Env-Sw 302.03 or Env-Sw 810;
- (3) Permit-by-notification facilities having an active life of 90 days or less;
- (4) Research and development permit facilities, as provided by Env-Sw 312.02(b); and
- (5) Emergency permit facilities, as provided by Env-Sw 313.02(b).

(b) The design requirements in this part shall apply as the complement of the design requirements in Env-Sw 1004 for all facilities, Env-Sw 1103 for facilities having an active life longer the 90 days, Env-Sw 1200 for permit-by-notification facilities and, depending on the type of waste managed, Env-Sw 900.

Env-Sw 805.02 General Landfill Design Requirements.

(a) A lined landfill shall incorporate the following design features:

- (1) A foundation pursuant to Env-Sw 805.03;
- (2) A liner system pursuant to Env-Sw 805.05;
- (3) A leak detection and location system pursuant to Env-Sw 805.07;
- (4) A groundwater and surface water monitoring system, if required pursuant to RSA 485-C and Env-Wm 1403;
- (5) A stormwater management system pursuant to Env-Sw 805.09;
- (6) A decomposition gas control system pursuant to Env-Sw 806.07;
- (7) A final capping system pursuant to Env-Sw 805.10; and
- (8) Facility structures as necessary to house, maintain and repair equipment and supplies, and to accommodate the needs of facility personnel relative to shelter, sanitation and communication.

(b) An unlined landfill shall incorporate the following design features:

- (1) A groundwater and surface water monitoring system, if required by RSA 485-A or RSA 485-C;

- (2) A stormwater management system pursuant to Env-Sw 805.09;
- (3) A final capping system pursuant to Env-Sw 805.10; and
- (4) Facility structures as necessary to house, maintain and repair equipment and supplies, and to accommodate the needs of facility personnel relative to shelter, sanitation and communication.

Env-Sw 805.03 Landfill Subgrade and Base Grade Standards.

- (a) The landfill subgrade shall be graded and prepared for landfill construction.
- (b) Subgrade materials shall have a saturated hydraulic conductivity of 1×10^{-4} centimeters per second (cm/sec) or less.
- (c) The subgrade shall have sufficient structural integrity to support the facility under all anticipated loading conditions during all phases of construction, operation and closure.
- (d) Engineering measures shall be incorporated in the design when necessary to ensure stability of the landfill during all phases of construction, operation and closure.
- (e) A stability analysis shall be submitted with the application to demonstrate compliance with requirements in (c) above and to support the facility design, including measures incorporated pursuant to (d) above, if any.
- (f) For geomembrane lined facilities, the subgrade below the liner shall:
 - (1) Be prepared to a depth which provides a uniform and consistent bedding layer which shall be stable under loading;
 - (2) Contain no stones greater than one inch in diameter, and no sharp or angular materials; and
 - (3) Be compacted to 95% of the maximum dry density as determined by ASTM International (ASTM) D 698-00a1 (Standard Effort) or ASTM D 1557-02e1 (Modified Effort).
- (g) Facility base grades shall be sloped to facilitate compliance with Env-Sw 805.06 and Env-Sw 806.05.

Env-Sw 805.04 Liner Material and Construction Requirements.

- (a) Soil liners shall meet or exceed the following specifications:
 - (1) The liner shall be constructed of no less than 3 feet of a recompacted natural soil with uniform and consistent characteristics, or a uniform and consistent natural soil blended with an admixture, such as bentonite;
 - (2) Recomposition shall occur in lifts not to exceed the depth demonstrated in a test pad necessary to achieve a saturated hydraulic conductivity no greater than 1×10^{-7} cm/sec;
 - (3) The recompacted lifts shall be constructed in a step-wise manner to limit the potential for vertical channeling;

- (4) Recomacted saturated hydraulic conductivity shall equal 1×10^{-7} cm/sec or less; and
- (5) The liner shall be protected from damage due to frost, desiccation and differential movement.
- (b) Geomembrane liners shall meet or exceed the following specifications:
 - (1) The liner material shall have a minimum thickness of 60 mils;
 - (2) The liner material shall be chemically compatible with anticipated waste and leachate characteristics; and
 - (3) Seaming methods which involve the use of solvents shall incorporate quality assurance/quality control procedures pursuant to Env-Sw 805.16 to assure protection of groundwater and surface water resources.
- (c) Composite liners shall consist of:
 - (1) A geomembrane liner, as specified by (b) above; and
 - (2) A soil component as specified by (a) above or a manufactured geosynthetic clay liner.
- (d) All liners shall be constructed in accordance with a quality assurance/quality control plan established pursuant to Env-Sw 805.16.

Env-Sw 805.05 Liner System Design Standards.

- (a) A liner system shall be comprised of the following components:
 - (1) A liner which meets the requirements of Env-Sw 805.04;
 - (2) A leachate collection and removal system which meets the requirements of Env-Sw 805.06; and
 - (3) A leak detection and location system, if required by Env-Sw 805.07.
- (b) A landfill shall incorporate one or more liner systems, as specified in Env-Sw 805.12 through Env-Sw 805.15, based on the type of wastes to be received by the facility.
- (c) Multi-liner systems shall be designed to place one liner system over another liner system.
- (d) A single-lined facility shall incorporate one liner system as specified in Env-Sw 805.05(a).
- (e) A double-lined facility shall incorporate 2 liner systems as specified in Env-Sw 805.05(a), separated by drainage material as specified in (f) below.
- (f) Except as provided by (g) below, each liner within a liner system shall be covered in the base area by an overlying layer of select granular soil materials 12 inches in depth or more as required to:
 - (1) Sustain anticipated loading conditions;
 - (2) Protect the underlying liners from puncture, including simultaneous puncture of multi-liner systems;

(3) Assist in the transmission of leachate in accordance with Env-Sw 805.06 and Env-Sw 806.05; and

(4) At multi-liner facilities, limit the potential for hydraulic head to be concurrently experienced on an underlying liner in the event a leak develops in an overlying liner.

(g) For multi-liner systems, geosynthetics may be used to separate the liners in areas of extended side slopes where placement and maintenance of granular materials is not possible or practical for reasons of stability.

(h) The design of all liner systems incorporating geomembrane materials shall include calculations to demonstrate stability.

(i) All liner systems shall be constructed by controlled methods, in accordance with a quality assurance/quality control plan established pursuant to Env-Sw 805.16.

Env-Sw 805.06 Leachate Collection and Removal System Design Standards.

(a) Leachate collection and removal systems shall be required at all lined landfills, to collect and remove leachate contained within each liner system in conformance with Env-Sw 806.05.

(b) Leachate collection and removal systems shall be designed to be hydraulically separate from the stormwater management system(s).

(c) Leachate collection and removal systems shall be designed to function effectively during freezing and frozen-ground conditions.

(d) Leachate collection and removal systems shall be designed to function effectively during both the active life of the landfill and the landfill closure and post-closure period. Therefore, for the purpose of sizing the system(s) components and specifying materials with an appropriate design life expectancy, the leachate generation rates and volumes for the above specified time period shall be considered.

(e) Leachate collection and removal systems shall be designed to maintain one foot or less of hydraulic head on all portions of the liner, excluding the leachate collection sumps if any, during routine operations including the 25-year storm event with a duration equivalent to the time of concentration of the drainage area of the component being sized.

(f) Leachate collection and removal systems shall be designed to manage the quantity of leachate to be generated by the 100-year storm event with a duration equivalent to the time of concentration of the drainage area which contributes to leachate generation, in a manner which shall:

(1) Not allow a hydraulic head greater than one-foot to exist on any portion of the liner system, excluding the leachate collection sumps, if any, for longer than 7 days;

(2) Provide storage and removal capabilities determined in accordance with (g) below if for a facility not directly connected to a permitted wastewater treatment facility or in accordance with (h) below if for a facility directly connected to a permitted wastewater treatment facility; and

(3) Not rely on leachate recirculation as a factor in determining the required storage and removal capabilities, even if leachate recirculation will be a routine operating procedure at the facility.

(g) Leachate collection and removal systems which are not directly connected to a permitted wastewater treatment facility shall provide capacity for storing leachate as follows:

- (1) At least 15% of the 100-year storm storage volume, as specified by (f) above, shall be provided in primary storage units located outside the waste deposition area or in sumps located within the waste deposition area;
- (2) The number of walls or liners in the primary storage units shall be no less than the number of liners within the landfill; and
- (3) Containment for the volume of leachate produced by the 100-year storm event which exceeds the volume of the primary storage units shall be provided:
 - a. Within contingency storage units located outside the waste deposition area, which shall be leak tight and accessible for leak testing, inspection and repair, but not necessarily multi-walled; and
 - b. On the uppermost liner within a waste deposition area provided that:
 1. Storage on the liner in excess of one-foot of hydraulic head shall be limited to a period of 7 days or less, based on procedures identified in the leachate management plan provided pursuant to Env-Sw 806.05, including the pumping and removal rates required to reduce the hydraulic head within 7 days and the specifications for the equipment required to do so; and
 2. Systems relying on valve closure to initiate storage on the liner shall be fully equipped with automated notification alarms to minimize the potential for overflow, in accordance with (p) below.

(h) Leachate collection and removal systems which are directly connected to a permitted wastewater treatment facility shall be designed as follows:

- (1) The system shall provide leachate storage units outside the waste deposition area as necessary to meet the requirements of (f) above based on the allowable discharge rate of leachate to the wastewater treatment facility, pump capabilities and other such factors which limit the rate at which leachate removal can occur;
- (2) Compatible pumping and removal rates shall be provided as a component of the facility's leachate management plan, pursuant to Env-Sw 806.05; and
- (3) Systems relying on valve closure to initiate storage shall be fully equipped with automated notification alarms to minimize the potential for overflow, in accordance with (p) below.

(i) The various components of a leachate collection and removal system shall:

- (1) Be chemically compatible with the anticipated waste and leachate characteristics;
- (2) Provide access for monitoring flow, monitoring hydraulic head in the uppermost liner system, controlling flow and cleaning;
- (3) Maintain integrity under both dynamic and static loading events for all phases of

landfill development;

(4) Specify geotextiles based on calculations which incorporate the leachate generation and flow rates anticipated to occur during the operating and post-closure phases of the landfill; and

(5) Be designed to prevent the passage of fine particulates into the leachate collection and piping systems as well as mitigate against or eliminate the effects of any material capable of reducing the hydraulic flow capacity of the leachate collection and piping systems.

(j) Pipes which require solvent welding shall not be used.

(k) The drainage blanket shall:

(1) Be designed to meet the requirements of (e) and (f) above;

(2) Contain no more than 15% calcium carbonate to prevent deposition and clogging and otherwise be of a quality that shall not result in clogging of the leachate collection and removal system(s); and

(3) Be constructed in accordance with a quality assurance/quality control plan established pursuant to Env-Sw 805.16.

(l) A facility shall not be designed to rely solely on managing leachate by recirculation methods.

(m) Recirculation of leachate, if practiced, shall proceed only in accordance with the provisions of a leachate recirculation plan approved by the department as part of the facility's operating plan pursuant to Env-Sw 1105 based on the criteria in Env-Sw 806.05.

(n) Leachate collection and removal systems which depend on routine pumping, rather than gravity operating methods, shall only be used at facilities where a full-time operator shall be present during normal operating hours and where auxiliary power and pumping equipment shall be available.

(o) Pump stations located outside the waste deposition area shall be designed to provide the following:

(1) Backup pumping capacity;

(2) Backup power supply;

(3) High-water alarm; and

(4) Efficient operation during both average and peak flows.

(p) Tanks, sumps or other storage units associated with leachate collection and removal systems, shall be equipped with high-water alarms.

Env-Sw 805.07 Leak Detection and Location System Design Standards.

(a) A leak detection and location system designed to detect and isolate the location of leaks through a liner shall be required beneath each liner installed at a lined landfill, unless the potential for leakage through the bottom most liner is reduced by one or both of the following design features:

- (1) Geonet is incorporated throughout the leachate collection and removal system for the bottom most liner, in order to rapidly convey leachate off the liner and thereby limit the potential for hydraulic head to develop on the liner; or
 - (2) The bottom most liner is a composite liner which meets the requirements of Env-Sw 805.04(c).
- (b) Leak detection and location systems shall be designed to:
- (1) Convey liquids to an observation point for detection, based on a maximum time of concentration equal to 24-hours under saturated hydraulic conditions; and
 - (2) Provide a means for isolating the potential location of a leak.

Env-Sw 805.08 Groundwater and Surface Water Monitoring System Design Standards.

- (a) At least one groundwater monitoring well shall be installed hydraulically upgradient from the landfill and at least 3 monitoring wells shall be installed in each down-gradient direction.
- (b) The location, materials and specifications of the groundwater and surface water monitoring system shall comply with the requirements of RSA 485-C.

Env-Sw 805.09 Stormwater Management System Design Standards.

- (a) All landfills shall include a stormwater management system to:
 - (1) Divert run-on around or away from the facility;
 - (2) Control run-off discharge from the facility;
 - (3) Control erosion, sedimentation, siltation, and flooding; and
 - (4) Minimize the generation of leachate.
- (b) Stormwater management systems shall be designed to accommodate the 25-year storm event of a duration equivalent to the time of concentration of the drainage area being served.
- (c) Stormwater management systems shall be designed to accommodate all phases of the landfill's active life, as well as the closure and post-closure period.
- (d) Stormwater management systems shall be hydraulically separate from the leachate collection and removal system(s).
- (e) Stormwater management systems shall be designed to function effectively during frozen ground conditions.
- (f) Permanent sedimentation ponds and detention ponds shall be sized to handle the 25-year/24-hour storm event with no less than one foot of freeboard below the emergency spillway invert.
- (g) Peak surface run-off from the landfill site during the 25-year storm event shall be controlled and maintained at the pre-development discharge rate, in accordance with RSA 485-A.
- (h) All stormwater that contacts waste shall be managed as leachate unless representative

analytical characterization conducted in accordance with the facility's approved operating plan demonstrates the liquid may be lawfully discharged to ground or surface waters without treatment.

- (i) Perimeter drainage swales shall be provided to channel run-off during facility development based on the planned sequence of filling pursuant to Env-Sw 806.02 and during the facility's post-closure period.
- (j) Perimeter drainage swales shall be designed and located to accommodate facility capping.
- (k) Surface water run-on shall be diverted around and away from the facility by using berms and ditches or similar methods.
- (l) Surface water run-off shall be controlled by using benches, terraces, diversion berms and diversion swales or similar methods.
- (m) Erosion shall be controlled by using vegetation, terrace berms, silt fences and check dams or similar methods.
- (n) Closed drainage systems, if used, shall include provisions for inspections, monitoring and maintenance.

Env-Sw 805.10 Landfill Capping System Design Standards.

- (a) Landfill capping systems shall be designed to meet the performance standards in Env-Sw 807.04 so as to:
 - (1) Reduce leachate generation by limiting to the extent practicable precipitation and surface water infiltration of the waste, through placement of either impermeable or low-permeable cover materials over landfilled areas;
 - (2) Promote drainage of stormwater and other surface waters away from and around the facility, by properly grading the facility and surrounding areas, and by constructing drainage structures, including berms, trenches, swales, ditches and detention ponds;
 - (3) Limit erosion and sedimentation by controlling stormwater drainage and by seeding, vegetating, riprapping or otherwise stabilizing surface soils against the effects of wind and water;
 - (4) At facilities that will generate methane gas, control the release of methane gas from the facility by incorporating vents designed to function properly in all anticipated weather conditions, including heavy or drifting snow, or by incorporating recovery wells or similar methods, to assure compliance with Env-Sw 806.07;
 - (5) Protect or isolate the underlying waste materials from exposure to the environment to limit the attraction of vectors, production of odors, risk of injury or fire, and other threats to the public health and safety;
 - (6) Resist damage due to the influences of freeze-thaw cycles, settlement, loading or other anticipated conditions which, not properly considered during design, will result in over stressing the cap; and
 - (7) Remediate environmental damage resulting from the facility's operation, if determined necessary by the department on the basis of groundwater and surface water quality at the site

or on the basis of other conditions involving environmental degradation at the site prior to closure.

(b) Lined landfill capping systems shall be designed in cross section according to the specifications provided in (e) below.

(c) Unlined landfill capping systems shall be designed in cross section according to the specifications provided in either (e) or (f) below.

(d) For unlined landfills, the type of capping system required pursuant to (e) or (f) below shall be based on which system type will meet the performance standards in Env-Sw 807.04, using the following factors to make the determination:

- (1) Type and quantity of waste received by the facility;
- (2) Size of facility footprint;
- (3) Compliance and performance history of the facility;
- (4) Extent of groundwater to waste contact zones, if any;
- (5) Groundwater and surface water quality at the facility site;
- (6) Proximity to drinking water supplies;
- (7) Age of the facility;
- (8) Site topography; and
- (9) Geologic and hydrogeologic characteristics of the site.

(e) Impermeable landfill capping systems shall, at a minimum, be comprised of the following layers, from the top of the waste to the top of the cap:

- (1) Layer one, immediately overlying the waste, shall:
 - a. Serve to provide a stable, properly graded base for the placement of layer 2;
 - b. Be designed to resist raveling, or the sifting of fines downward into the underlying wastes; and
 - c. Consist of no less than 12-inches of unspecified soil;
- (2) Layer 2 shall:
 - a. Serve to protect layer 3 from potential damage by underlying coarse soil materials;
 - b. Serve to transmit decomposition gases to gas vents if active gas extraction wells are not used;
 - c. Consist of 12 inches of sand with 100% passing the one inch sieve and with no more than 12% passing the number 200 sieve on a weight basis if for a facility without

an active gas extraction system or 6 inches of soil with 100% passing the one inch sieve if for a facility with an active gas extraction system; and

d. Be constructed in accordance with a quality assurance/quality control plan established pursuant to Env-Sw 805.16;

(3) Layer 3 shall consist of an impermeable barrier which shall:

a. Minimize the infiltration of water into underlying wastes so as to limit continued leachate production and the associated adverse impacts to the quality of groundwater and surface waters;

b. Consist of a geomembrane with a minimum thickness of 40 mils or an impermeable soil, or admixture; and

c. Be constructed in accordance with a quality assurance/quality control plan established pursuant to Env-Sw 805.16;

(4) Layer 4 shall:

a. Provide for the removal of water which infiltrates through the topsoil layer, or layer 5;

b. Protect layer 3 from penetration or other damage, including frost and desiccation;

c. Consist of:

1. At least 18 inches of free-draining sand which has a saturated hydraulic conductivity of no less than 1×10^{-3} cm/sec, will pass on a weight basis no more than 10% through the number 200 sieve and contains no more than 15% calcium carbonate; or

2. Geonet and no less than 12 inches of drainage sand, specified based on the results of a hydraulic calculation supporting the design and containing no more than 15% calcium carbonate;

d. Be constructed in accordance with a quality assurance/quality control plan established pursuant to Env-Sw 805.16; and

e. Terminate in a drainage system at the toe of the slope of the cap that is designed to readily remove water transmitted by layer 4; and

(5) Layer 5 shall:

a. Serve to stabilize the capping system against the forces of wind and water erosion;

b. Provide a low-maintenance surface;

c. Promote evapotranspiration, meaning loss of water from the soil by both evaporation and transpiration from plants growing thereon;

d. Provide ease of visual inspection of the capping system surface; and

e. Consist of no less than 4 inches of topsoil, which is fertilized and vegetated.

(f) Alternative or supplemental materials to the topsoil specified in (e)(5) above shall be used if determined necessary by the permittee and agreed to by the department on the basis of actual site features and conditions, to achieve the required stability or erosion control.

(g) Low permeable capping systems, formerly referred to by the department as “extended interim closure,” shall be comprised of the following layers, at a minimum, from the top of the waste to the top of the cap:

(1) Layer one shall conform to the requirements for layer one for impermeable capping systems as specified in (e)(1) above;

(2) Layer 2 shall:

a. Serve to isolate wastes from the environment and to protect public health;

b. Reduce the infiltration of water into underlying wastes;

c. Consist of no less than 18 inches of soil with a saturated hydraulic conductivity not greater than 1×10^{-5} cm/sec; and

d. Be constructed in accordance with a quality assurance/quality control plan pursuant to Env-Sw 805.16; and

(3) Layer 3 shall conform to the requirements for layer 5 for impermeable capping systems as specified in (e)(5) above.

(h) Landfill capping systems shall be designed to manage properly stormwater resulting from the 25-year/24-hour storm event and incorporate at least one of the following:

(1) Intermittent swales on the side slopes of the capping system, placed at an interval of 20 vertical feet or minimum spacing of 100 feet as measured from the center line of the swales, with a minimum slope of 2 percent to allow for settlement; or

(2) An erosion-resistant moisture retention layer, placed directly under the vegetated layer, designed to sustain vegetative growth and effectively resist gully erosion.

(i) Stability calculations for the landfill capping system shall be submitted by the applicant to support the proposed design.

(j) Excluding the drainage swales noted in (h)(1) above, landfill capping systems shall be designed at a slope of 5% or greater, as necessary to accommodate the anticipated effects of settlement and consolidation and assure positive drainage and stability of the capping system during the post-closure period.

(k) The landfill capping system shall:

(1) Extend beyond the confirmed limits of landfilled waste and the underlying liner systems; and

(2) Terminate or be anchored in a manner which:

- a. Stabilizes the capping system against creep, pull-out and material failure due to excessive stress;
- b. Limits erosion or wash-out at the toe-of-landfill slope(s); and
- c. Limits, to the extent practicable, surface water from infiltrating into the waste.

(l) The landfill capping system and the post-closure period stormwater management system shall be compatible in design. Hydraulic calculations to support the proposed design shall be provided, including calculations to demonstrate that the drainage media shall function as intended in the design.

(m) Unless the facility only receives inert waste such as concrete debris, the landfill capping system shall incorporate a methane gas management system meeting the performance criteria of Env-Sw 806.07.

(n) Landfill capping systems shall be designed to support such loading as might occur during and following construction, including activities anticipated to occur during post-closure inspections, monitoring and maintenance, such as maintenance vehicles driving over the cap.

(o) On-the-ground markers or other type of control points shall be placed at the facility site to allow facility inspectors to readily identify and locate the limits of the capping system.

Env-Sw 805.11 Other Landfill Design Requirements.

(a) The sequencing of facility development shall be planned based on subdividing the footprint into areas separated by berms.

(b) The subdivisions of a footprint shall be referred to as phases, stages and cells, each term being used as defined in Env-Sw 102-104.

(c) A facility shall be comprised of one or more phases, within which may exist one or more stages, within which may exist one or more cells, depending on the size of the facility and the design of the leachate management system.

(d) The layout and the configuration of, and the sequence for developing the phases, stages and cells shall, by design:

- (1) Limit leachate generation by controlling the amount of area open to active operation and otherwise placing waste in a controlled manner consistent with the requirements in Env-Sw 806.02;

- (2) Limit the length of time unused cells remain inactive; and

- (3) Avoid the need to decommission groundwater monitoring wells as facility development proceeds and new stages or phases are constructed.

(e) Fill sequencing plans shall be prepared as part of the facility operating plan to show clearly the sequencing of facility development.

(f) Fill sequencing plans shall:

- (1) Show elevations and placements of lifts, as well as general access points;

- (2) Be compatible with the facility's leachate management system design capabilities and limitations;
 - (3) Be compatible with the facility's stormwater management system design capabilities and limitations;
 - (4) Be compatible with the facility closure design; and
 - (5) Provide information and detail sufficient to allow a facility operator to operate the landfill in accordance with the approved design.
- (g) Main access roads within the property boundary of a landfill leading to and from the working face of the landfill shall be designed and maintained to support the required loading, as well as limit to the extent practicable traffic congestion, road safety hazards and dust production.
- (h) Main access roads onto or into property shall be fenced if necessary to catch blowing paper.
- (i) Landscaping features shall be incorporated in conformance with Env-Sw 1103.04.
- (j) Final grades at the facility shall be designed to blend with surrounding features to the greatest extent practicable.
- (k) Perimeter and interior berms shall be analyzed for stability.

Env-Sw 805.12 MSW Landfill Design Standards.

- (a) Landfills receiving municipal solid waste (MSW) shall be designed as double-lined facilities pursuant to Env-Sw 805.05.
- (b) Landfills receiving MSW shall be designed to provide the capability to operate in a manner that promotes rapid biological stabilization of landfilled wastes, as by leachate recirculation or bioreactor technologies, or both.

Env-Sw 805.13 MSW Incinerator Ash Landfill Design Standards. Landfills receiving MSW incinerator ash shall be double-lined facilities pursuant to the requirements of Env-Sw 805.05.

Env-Sw 805.14 Construction/Demolition Debris Landfill and Coal Ash Landfill Design Standards.

- (a) Except as provided by Env-Sw 805.15 and subject to (b) below, landfills receiving construction and demolition debris only or coal ash only may be designed as single-lined facilities pursuant to the requirements of Env-Sw 805.05.
- (b) If, based on an evaluation of the facility's proposed operating plan and identification of the specific type or source of the wastes, the characteristics of the wastes cannot be consistently determined or assured or the characteristics pose a threat to groundwater quality, the facility shall be a double-lined facility.
- (c) Design features shall include the means to control and extinguish fires which might occur within the landfill and to otherwise limit the potential for liner damage due to fire.
- (d) Landfills which co-mingle construction and demolition debris with other waste types shall meet the design requirements set forth in this part relative to the other waste types, if the latter are more

stringent than the requirements set forth in (a) above.

Env-Sw 805.15 Design Standards for Landfills Receiving Other Solid Waste Types.

(a) Landfills for any waste type(s) not specifically identified in Env-Sw 805.12 through Env-Sw 805.14 shall be designed as double lined facilities, except as provided by (b) below and subject to the landfilling prohibitions in Env-Sw 806.12.

(b) Landfills which receive only stumps and brush or only asbestos or only inert demolition debris, as assured through the provisions of the facility's operating plan, may be designed as unlined landfills pursuant to Env-Sw 805.02(b).

Env-Sw 805.16 Quality Assurance/Quality Control (QA/QC) Standards for Liner and Capping Systems.

(a) Liners and capping systems shall be tested and placed in strict accordance with a quality assurance/quality control (QA/QC) plan developed in accordance with this part and approved by the department as part of the construction contract documents provided pursuant to the provisions for a type II permit modification in Env-Sw 315.

(b) The QA/QC plan for the soil components within a leachate collection system and within a leak detection system, and the soil drainage and gas migration layers within a capping system shall, at a minimum, specify criteria for acceptance based on the following tests:

- (1) Grain size distribution pursuant to ASTM D422-63 (2002) for:
 - a. Every 3,000 cubic yards of unprocessed sand; or
 - b. Every 10,000 cubic yards of sand which has been processed to meet the project specifications;
 - (2) Hydraulic conductivity pursuant to ASTM D2434-68 (2000) for each new source of sand material except for the gas migration layer(s); and
 - (3) Calcium carbonate content pursuant to ASTM D4373-02 for each new source of sand material except for the gas migration layer.
- (c) The QA/QC plan for soil liners and caps shall, at a minimum, specify:
- (1) Compaction test method pursuant to ASTM D698-00ae1 or ASTM D1557-02e1 and testing frequency for liner or cap material;
 - (2) Permeability test method pursuant to ASTM D5084-00e1 and testing frequency for liner or cap material;
 - (3) In place sampling method pursuant to ASTM D1587-00 and permeability testing frequency of the constructed liner or cap;
 - (4) Criteria for acceptance of liner or cap; and
 - (5) Provisions for correcting the installation of off-specification materials.
- (d) Geomembranes used as materials for the capping and lining of a landfill shall be

manufactured, handled, deployed, seamed and inspected in accordance with a QA/QC plan as follows:

- (1) The QA/QC plan shall require:
 - a. The project engineer pursuant to Env-Sw 1104.06 or his/her designee to verify the quality of the geomembrane material and all phases of geomembrane construction; and
 - b. The project engineer or his/her designee to be present on site at all times during handling, deployment, seaming, testing and covering of any geomembrane liner or cap and have the authority to order testing and to reject any materials or constructed systems which might affect the liner's or cap's performance for any reason;
- (2) The QA/QC plan shall:
 - a. State clearly the minimum qualifications of the project engineer and his/her designee, if any;
 - b. Outline the specific duties of the project engineer or his/her designee with respect to the QA/QC plan; and
 - c. Require the project engineer to provide QA reports as specified in Env-Sw 1104.04;
- (3) The QA/QC plan shall contain manufacturer's quality assurance requirements to assure that geomembranes used for landfill liners or caps shall be of a consistent quality and meet the project specifications;
- (4) The QA/QC plan, at a minimum, shall:
 - a. State the type of geomembrane and the minimum requirements of raw material quality and formulation; and
 - b. Identify the minimum acceptance standards for manufactured geomembrane sheets, including overall sheet quality, a list of acceptable index properties and quality of factory seams;
- (5) The QA/QC plan shall reference the appropriate standard tests, such as ASTM or Geosynthetics Research Institute (GRI), to verify that the requirements cited in (4) above have been met;
- (6) To assure that geomembrane material shall not be damaged from the time it leaves the factory to the time it is finally covered, the QA/QC plan shall address the following:
 - a. Requirements for shipping, handling and site storage to assure that the material shall be protected from damage and sunlight;
 - b. Minimum quality standards for the subgrade upon which the geomembrane will rest;
 - c. Provisions for the project engineer or his/her designee to inspect the subgrade prior to placement of any geomembrane and, pursuant to Env-Sw 1104.04, certify that the subgrade has been installed in accordance with contract documents;

- d. Standards for the placement of geomembrane material which address, at a minimum, placement methods, unfavorable weather conditions, excessive heat or cold, and wind; and
 - e. The upper limit on the amount of patching any geomembrane panel can receive;
- (7) The QA/QC plan shall contain minimum requirements for seam quality and specific remedies for when the minimum requirements are not met;
- (8) The QA/QC plan, at a minimum, shall:
- a. Verify the competence of seaming and welding equipment and personnel prior to seaming and welding;
 - b. State the frequency at which testing shall occur and the testing protocol to be met;
 - c. Require the project engineer or his/her designee to have authority to reject any equipment or personnel not passing the tests specified by the QA/QC plan;
 - d. Specify testing for seam strength at a specified interval and criteria for pass/fail; and
 - e. Specify testing for seam continuity;
- (9) The QA/QC plan shall reference the appropriate standard tests, such as ASTM or GRI, to verify that the requirements cited in (8) above have been met;
- (10) The QA/QC plan shall contain provisions for protecting the geomembrane during covering and backfilling; and
- (11) The QA/QC plan shall be:
- a. Part of the specifications for the contract documents prepared and submitted to the department for construction approval, pursuant to Env-Sw 1104 and the provisions for a type II permit modification in Env-Sw 315; and
 - b. Be approved by the department as a condition of any construction approval granted.

PART Env-Sw 806 OPERATING REQUIREMENTS

Env-Sw 806.01 Applicability.

- (a) The operating requirements in this part shall apply to all landfills, except:
- (1) Existing landfills which ceased operating prior to October 29, 1997 and do not resume operations on or after October 29, 1997;
 - (2) Permit-exempt landfills identified in Env-Sw 302.02 or Env-Sw 810;
 - (3) Permit-by-notification landfills having an active life of 90 days or less;

- (4) Research and development permit facilities as provided by Env-Sw 312.02(b); and
- (5) Emergency permit facilities as provided by Env-Sw 313.02(b).

(b) The operating requirements in this part shall apply as the complement of operating requirements in Env-Sw 1005 for all facilities, Env-Sw 1105 for facilities having an active life longer than 90 days, Env-Sw 1204 for permit-by-notification facilities and, depending on the type of waste managed, Env-Sw 900.

Env-Sw 806.02 Waste Placement.

- (a) As part of the facility operating plan, a fill sequencing plan shall be developed in accordance with Env-Sw 805.11 and implemented in accordance with the requirements of this section.
- (b) Wastes shall be placed only within the permitted vertical and lateral limits of the landfill.
- (c) Wastes shall be placed in a controlled manner, in accordance with the fill sequencing plans.
- (d) Fill sequencing plans shall be developed on the basis of limiting the quantity of leachate a facility generates, through grading and covering techniques which maximize the quantity of received precipitation that can be handled as stormwater.
- (e) Unloading of waste shall be confined to the smallest practical area.
- (f) Exposed waste on the working face of the landfill shall be limited, to reduce precipitation contact with the waste and to allow the area to be covered as required pursuant to Env-Sw 806.03.
- (g) All waste shall be evenly spread in shallow lifts and compacted, in accordance with plans and procedures which:
 - (1) Assure stability;
 - (2) Limit potential future settlement;
 - (3) Limit rainfall infiltration; and
 - (4) Are consistent with the progressive development of final grades.
- (h) The first layer of waste placed above the leachate collection layer shall be a minimum of 4 feet in compacted thickness and be of a select nature containing no large or rigid objects, such as pipes or posts, that might cause damage to the liner system or instability.

Env-Sw 806.03 Landfill Cover During Operations.

- (a) An approved cover material shall be applied over all sides and working faces of the landfill in a manner and at a frequency required to achieve the following performance objectives:
 - (1) Minimize the dispersal of offensive odors;
 - (2) Minimize the potential to attract and harbor vectors;
 - (3) Control drainage in accordance with Env-Sw 805.06, Env-Sw 805.09, Env-Sw 806.05,

and Env-Sw 806.06;

- (4) Control unsightly conditions and windblown waste;
- (5) Reduce the potential for fire;
- (6) Provide stability; and
- (7) Assist in the proper development of final grades, as set forth in the facility's approved fill sequencing plans.

(b) A material shall not be approved or used as cover material unless:

- (1) The material exhibits characteristics required to achieve the performance objectives in (a) above;
- (2) Use of the material will not:
 - a. Cause equipment or operational problems;
 - b. Contribute to the deterioration of leachate quality at lined landfills;
 - c. Cause groundwater contamination at unlined landfills; or
 - d. Pose a hazard to human health through skin contact or respiration; and
- (3) The material itself:
 - a. Is not a hazardous waste;
 - b. Is physically and chemically consistent in nature; and
 - c. Contains no free liquids.

(c) At landfills receiving MSW, cover material shall be placed over all exposed waste no less frequently than at the end of each operating day.

(d) Subject to the requirements in (b) above, the following materials shall be approved as working face cover material:

- (1) Natural soils; and
- (2) The following alternate materials, provided that use of the material is approved as part of the facility operating plan or approved as a type III permit modification pursuant to Env-Sw 315:
 - a. Geosynthetic tarps;
 - b. Casting sands;
 - c. A waste certified for distribution and use as landfill cover pursuant to the provisions of Env-Sw 1500; and

- d. Contaminated soil, subject to the requirements of Env-Sw 903.05.

Env-Sw 806.04 Operating Standards for Groundwater and Surface Water Monitoring. A water quality monitoring program shall be implemented at all landfills, if required pursuant to the provisions of RSA 485-C.

Env-Sw 806.05 Leachate Management Requirements.

- (a) All lined landfills shall manage leachate by collecting and removing it from the liner system(s) to an approved treatment or disposal facility.
- (b) As part of a facility's operating plan, a leachate management plan shall be developed and implemented at all lined landfills, based on the following criteria:
 - (1) Routine facility operations, including operations during the 25-year storm event, shall not result in more than one foot of hydraulic head on the liner system(s);
 - (2) The quantity of leachate generated at the facility shall be limited to the extent possible, by properly planning the sequenced development of the facility, properly managing stormwater infiltration and inflow, minimizing the active area of the landfill and applying cover in accordance with Env-Sw 806.03;
 - (3) No less than 2 locations for leachate treatment or disposal shall be available by written agreement to manage the quantity of leachate generated by the facility during its active life, except as provided in (4) below;
 - (4) Facilities that are directly connected to permitted wastewater treatment facility need only to provide one location for leachate management, other than the treatment facility;
 - (5) The recirculation of leachate shall be prohibited at ash monofills;
 - (6) At MSW landfills, leachate recirculation shall be allowed if approved by the department subject to (7) below, as part of the facility's operating plan prepared pursuant to Env-Sw 1105; and
 - (7) The practice of leachate recirculation shall:
 - a. Not adversely affect the quality of the leachate so as to preclude its acceptance at waste water treatment facilities listed in the leachate management plan;
 - b. Not cause the facility to operate in excess of 12 inches of hydraulic head on the liner under routine operations including the 25-year storm event;
 - c. Not result in a loss of structural stability;
 - d. Not be adversely affected by weather conditions, such as freezing temperatures or periods of heavy rainfall; and
 - e. Provide a benefit to facility operations, exclusive of any short or long-term economic benefit which may be associated with postponing leachate collection and removal.

- (c) Storage capacity shall be required to contain the leachate generated by the precipitation from

the 100-year storm event in accordance with Env-Sw 805.06.

(d) A pumping and removal schedule shall be incorporated into facility operations to assure the availability of storage capacity.

(e) Regularly-scheduled inspections and routine maintenance of the leachate collection and removal systems shall be established as part of the facility's operating plan to limit clogging of the systems and to otherwise assure the functional integrity of the systems.

Env-Sw 806.06 Stormwater Management Requirements. The permittee shall grade the site to redirect run-on and run-off away from the active face of the landfill, reduce the amount of leachate generated, and reduce the potential for erosion, in accordance with Env-Sw 805.09.

Env-Sw 806.07 Decomposition Gas Control Requirements.

(a) Decomposition gases shall be controlled to prevent hazards to health, safety or property.

(b) Facility operations shall not cause the concentration of methane and other explosive gases to:

(1) Exceed 25 percent of the lower explosive limit for gases in structures on or off-site, excluding leachate collection and gas control and recovery components; and

(2) Exceed 50 percent of the lower explosive limit for the gases at and beyond the property boundary within the soil.

(c) To assure that the requirements in (a) above are met, a monitoring program shall be implemented by the permittee in accordance with provisions in the facility's approved operating plan and closure plan.

(d) The type and frequency of monitoring shall be based on the following factors:

(1) Soil conditions;

(2) The hydrogeological and hydraulic conditions surrounding the disposal area; and

(3) The location of any man-made structures and property boundaries.

(e) If methane or other explosive gases are detected above the limits specified in (b) above, the permittee shall notify the department immediately and implement contingency procedures to ensure the protection of public health and safety.

(f) A decomposition gas program shall be implemented by the permittee under the provisions of the facility's approved operating plan and closure plan to assure that the facility complies with the federal clean air act and state air quality standards.

(g) A written plan for confined space entry, based on the standards specified by Federal Occupational, Safety and Health Administration (OSHA) requirements in 29 CFR 1910.146, shall be prepared and implemented as part of facility operations.

Env-Sw 806.08 Inspections, Maintenance, Monitoring and Reporting Requirements.

(a) This section establishes requirements, in addition to those requirements specified in Env-Sw 1000 and Env-Sw 1100, for inspecting, maintaining and monitoring landfills which have not undergone

closure pursuant to an approved closure plan, and specifies the reporting requirements related thereto.

(b) Unless otherwise specified, the word “daily” as used in this section shall mean on each operating day.

(c) The permittee shall regularly inspect and maintain all facility components, including:

- (1) Roads;
- (2) Berms;
- (3) Active and inactive filling areas;
- (4) Pipes;
- (5) Vaults;
- (6) Valves;
- (7) Tanks;
- (8) Ponds;
- (9) Equipment;
- (10) Temporary, intermediate and final cover;
- (11) Groundwater monitoring wells; and
- (12) Gas management devices.

(d) Leachate management systems shall be monitored, and the data recorded in the facility operating records, as follows:

- (1) The hydraulic head elevation on the liner shall be measured at the low point of a cell, phase or stage where leachate is collected, and recorded:
 - a. At least once per month;
 - b. After each storm event greater than or equal to the 2-year/24-hour storm; and
 - c. If the hydraulic head is found to be 12 inches or greater, daily until the hydraulic head is less than 12 inches;
- (2) The quantity of leachate collected off the liner systems and transported off-site or treated shall be measured daily, and the destination recorded;
- (3) Flow in the secondary leachate collection system(s), shall be measured and recorded:
 - a. At least once per week; and
 - b. More frequently when required to complete an investigation pursuant to (k) below;

- (4) The average flow in the secondary leachate collection system(s) occurring during the 30-day operating period preceeding the last measurement shall be calculated, recorded and, when required pursuant to (k) below, reported;
- (5) Analytical characteristics, based on representative samples taken from the primary leachate collection system in April, July and November, shall be determined for the following parameters:
- a. pH;
 - b. Temperature;
 - c. Chemical oxygen demand (COD);
 - d. Specific conductance;
 - e. Iron;
 - f. Manganese;
 - g. Sulfates;
 - h. Chlorides;
 - i. Chromium;
 - j. Lead;
 - k. Cadmium; and
 - l. Except for ash landfills, volatile organic compounds (VOCs); and
- (6) The liquid level in the leachate storage tanks shall be measured on a daily basis at facilities not connected to a wastewater treatment facility and on a weekly basis at facilities connected to a wastewater treatment facility.
- (e) Landfill gas concentrations shall be measured no less than quarterly and in accordance with Env-Sw 806.07.
- (f) Groundwater and surface water quality monitoring systems shall be monitored and the data reported as required pursuant to RSA 485-A or RSA 485-C, as applicable.
- (g) Facilities shall file quarterly and annual reports in accordance with Env-Sw 303, according to the following schedule:
- (1) Quarterly reports shall be filed no later than 30 days following the end of the quarterly reporting period; and
 - (2) Annual reports shall be filed no later than March 31 of the year following the calendar year being reported.
- (h) The quarterly report shall include:

- (1) The name and permit number of the reporting facility;
 - (2) The data specified by (d) and (e) above, excluding leachate analytical data required by (d)(5);
 - (3) Quantity and type of waste received by the facility daily, in tons;
 - (4) Data units for each type of data reported;
 - (5) Reporting period or dates the data was collected, for each type of data reported; and
 - (6) Monthly and quarterly subtotals for each type of data reported.
- (i) The leachate analytical data required pursuant to (d)(5), above, shall be filed in accordance with Env-Sw 303, no later than 30 days following receipt of analytical results.
- (j) Annual reports shall:
- (1) Be prepared as specified by Env-Sw 1105.13 and Env-Sw 1105.14, as applicable; and
 - (2) Include:
 - a. A summary of the facility inspection and maintenance activities; and
 - b. An analysis of remaining capacity based on a site survey which identifies the remaining facility capacity.
- (k) The following reporting requirements shall apply to the average secondary leachate collection system flow rates occurring over a 30-day period:
- (1) Rates less than or equal to 25 gallons per tributary acre per day shall be reported to the department in accordance with (h) above no less than quarterly;
 - (2) Rates which exceed 25 gallons per tributary acre per day shall be reported to the department within one week of identifying the rate, except for flow which the department agrees is the result of the dewatering of the drainage layer following construction; and
 - (3) Except for flow which the department agrees is the result of the dewatering of the drainage layer following construction, rates which exceed 100 gallons per tributary acre per day shall require the permittee to file an investigation report with the department in accordance with Env-Sw 806.09.
- (l) Destruction of facility records shall not occur unless approved by the department pursuant to the provisions for a type V permit modification in Env-Sw 315.

Env-Sw 806.09 Other Operating Standards.

- (a) Equipment for spreading, compacting and covering solid wastes under all anticipated weather conditions shall be available and in operating condition at all times.
- (b) Auxiliary equipment shall be available as required by the facility's operating plan.

(c) Salvaging of solid waste shall be controlled so as not to interfere with landfill operations and not to harbor vectors or otherwise result in violating the universal facility requirements in Env-Sw 1000.

(d) Salvaging that constitutes landfill reclamation shall be subject to Env-Sw 808.

(e) The permittee shall investigate the occurrence of flow rate in the secondary leachate collection system that exceeds 100-gallons per tributary acre per day and which cannot be reasonably attributed to the dewatering of the drainage layer following construction.

(f) The investigation in (e) above shall be for the purpose of identifying the potential cause(s) and appropriate response actions related thereto, which shall be reported to the department in writing in the form of a proposed response action plan.

(g) The permittee shall implement the approved response action plan to include any of the following actions deemed necessary on the basis of the likely cause and remedy of the problem:

- (1) Increasing monitoring and reporting;
- (2) Instituting operational changes to limit hydraulic head on the overlying liner;
- (3) Locating and repairing leak(s);
- (4) Retrofitting the overlying liner; or
- (5) Closing part or all of the facility if necessary to protect human health and environment.

Env-Sw 806.10 Construction/Demolition Debris Landfill Operating Requirements. Landfills receiving construction and demolition debris shall comply with the operating standards set forth in this part and in Env-Sw 805.14.

Env-Sw 806.11 Asbestos Waste Landfill Operating Requirements. Landfills receiving asbestos shall operate in compliance with Env-Sw 901, this part and Env-Sw 805.15.

Env-Sw 806.12 Prohibitions. The following wastes shall not be landfilled:

- (a) Untreated infectious waste;
- (b) Contained gaseous waste;
- (c) Liquid wastes;
- (d) Wet cell batteries, pursuant to RSA 149-M:27, II; and
- (e) Leaf or yard waste, except as provided in RSA 149-M:27, III.

PART Env-Sw 807 CLOSURE REQUIREMENTS

Env-Sw 807.01 Applicability.

(a) The rules in this part shall apply to closure of all landfills, except:

- (1) Facilities that have closed in accordance with a department-approved closure plan and have achieved the performance standards in Env-Sw 807.04;

- (2) Permit-exempt facilities, operated and closed in compliance with the exemption;
- (3) Permit-by-notification facilities having an active life of 90 days or less, which have operated and closed in compliance with the permit-by-notification;
- (4) Research and development permit facilities as provided by Env-Sw 312.02(b); and
- (5) Emergency permit facilities as provided by Env-Sw 313.02(b).

(b) The closure requirements in this part shall apply as the complement of the closure requirements in Env-Sw 1006 for all facilities, Env-Sw 1106 for facilities having an active life longer than 90 consecutive days and, depending on the type of waste managed, Env-Sw 900.

Env-Sw 807.02 Closure Scheduling.

- (a) Except as noted in (b) below, a landfill which has operated in compliance with its permit shall be subject to closure on a schedule specified in the permit based on the facility capacity and life expectancy.
- (b) A landfill which holds a temporary permit shall be subject to closure on a schedule determined pursuant to Env-Sw 307.
- (c) Other circumstances which shall provide cause for closure shall be as specified in Env-Sw 1006.01.

Env-Sw 807.03 Landfill Closure and Post-Closure Requirements.

- (a) Landfills shall be closed in accordance with an approved closure plan pursuant to Env-Sw 1106.
- (b) Subject to (c), below, landfill closure and post-closure activities shall involve all activities required at a facility to achieve the performance standards in Env-Sw 807.04, including:
 - (1) Terminating active use of the facility;
 - (2) At unlined landfills, investigating the extent of waste to groundwater contact zones, if any, and if required under RSA 485-C:
 - a. Removing the waste out of groundwater; or
 - b. Lowering the groundwater table;
 - (3) Consolidating landfilled waste within the permitted footprint, grading slopes and otherwise configuring the facility for acceptance of a capping system that meets the requirements of Env-Sw 805.10;
 - (4) Constructing and maintaining a capping system at the facility which meets the standards set forth in Env-Sw 805.10;
 - (5) Constructing, operating and maintaining a stormwater management system for the capped facility and site in accordance with the standards set forth in Env-Sw 805.09 and Env-Sw 806.06;

- (6) Operating and maintaining the facility's leachate management system in accordance with Env-Sw 806.05 and in accordance with a schedule specified in the approved post-closure monitoring and maintenance plan;
 - (7) Operating, maintaining and monitoring the facility's leak detection system(s) in accordance with the provisions of the approved post-closure monitoring and maintenance plan;
 - (8) Constructing, operating and maintaining the facility's groundwater and surface water monitoring system and implementing the facility's approved post-closure groundwater and surface water monitoring program in accordance with RSA 485-C;
 - (9) Constructing, operating, and maintaining the facility's decomposition gas control system as applicable, in accordance with Env-Sw 806.07;
 - (10) Monitoring settlement, both by visual inspection and by using established control points, and making related repairs to the facility as needed including the repair of areas where settlement exceeds the capping system's design tolerances and the repair of areas where settlement results in the loss of positive drainage;
 - (11) Providing control of access to the facility in accordance with Env-Sw 1104 and to facilitate compliance with the performance standards provided in Env-Sw 807.04 and to otherwise limit threats to public health, safety and the environment;
 - (12) Providing financial assurance for the cost of post-closure monitoring, in accordance with Env-Sw 1400;
 - (13) Meeting all requirements in Env-Sw 807.05 and filing all reports with the department in accordance with Env-Sw 1105.14; and
 - (14) Undertaking any other activities, including remedial activities, as necessary to achieve compliance with Env-Sw 807.04.
- (c) Maintaining a closed landfill or any component thereof shall include all inspection, monitoring and repair work required to satisfy the performance standards in Env-Sw 807.04 and the reporting requirements in Env-Sw 807.05.
- (d) For landfills existing prior to October 29, 1997 and located on property not owned by the permittee, the permittee shall obtain legal rights of access to the property prior to facility closure for the purpose of meeting all required closure and post-closure obligations at the facility in accordance with the solid waste rules. Such legal rights of access shall be for a period of time not less than 99 years.
- Env-Sw 807.04 Performance Standards. The permittee shall implement an approved closure plan requiring that:
- (a) The facility and site effectively cease generating leachate;
 - (b) The facility and site effectively cease generating decomposition gases;
 - (c) The facility and site achieve maximum settlement, with the capping system intact and no reasonable expectation that integrity of the capping system will be at risk without regular maintenance;

- (d) The facility and site have no adverse impact to air, groundwater or surface water; and
- (e) The facility and site not otherwise pose a risk to human health or the environment.

Env-Sw 807.05 Post-Closure Inspections, Monitoring, Maintenance and Reporting Requirements.

(a) The post-closure period of a landfill shall be the period of time required to demonstrate the facility has achieved the performance standards specified in Env-Sw 807.04.

(b) During the post-closure period, the permittee shall have specific obligations to regularly inspect, monitor and maintain the facility in conformance with the solid waste rules based on the provisions of a post-closure inspection, monitoring and maintenance plan approved by the department in the permit pursuant to (e) below.

(c) For the purposes of determining initial financial assurance requirements, the post-closure period for landfills receiving MSW or MSW ash, or both, shall be equal to 30 years from the date the complete capping system is installed.

(d) The initial post-closure period shall be subject to periodic adjustment by implementing the permit modification procedures in Env-Sw 306 and Env-Sw 315 as follows:

(1) In the event that post-closure monitoring data or other available information provides an indication that the required performance standards are unlikely to be achieved during the approved post-closure monitoring period:

- a. The permittee shall identify the cause in a report to the department; and
- b. Depending on the cause, the department shall adjust the post-closure monitoring period or require the permittee to implement remedial closure or post-closure work, pursuant to the permit modification procedures in Env-Sw 306; or

(2) In the event the permittee believes that post-closure monitoring data and other available information provides sufficient evidence that the required performance standards are achieved at the facility, the permittee may submit an application for permit modification pursuant to Env-Sw 315 to request an appropriate reduction in the post-closure period for the facility.

(e) A detailed post-closure inspection, monitoring and maintenance plan shall be developed and implemented by the permittee to assure compliance with Env-Sw 807.03, Env-Sw 807.04, and this section. The plan shall be a condition of the facility's permit when approved by the department.

(f) All facility systems shall be thoroughly inspected on a schedule that is initially the same as required of operating facilities in Env-Sw 806.08.

(g) The permittee may request a decrease in the frequency of inspections based on a favorable comparison of the performance expectations and actual performance but in no case shall inspections occur less than semi-annually.

(h) Copies of the inspection reports shall be filed in accordance with Env-Sw 303 within 30 days of completing the inspection.

(i) Pursuant to Env-Sw 1105.14, the permittee shall file an annual report with the department including an assessment of whether facility is achieving the performance requirements in Env-Sw 807.04.

(j) The permittee shall notify the department in accordance with Env-Sw 1105.07 when facility damage, malfunction or sub-standard performance occurs at the facility.

(k) Following completion of the capping system construction, the permittee shall file record drawings for the closed facility in accordance with Env-Sw 1104.07.

(l) The permittee shall attach notification to the property deed that a landfill exists on the property and cause the notification to be recorded at the registry of deeds in the county where the property is located.

(m) Proof of notification filing pursuant to (l) above shall be provided to the department by the permittee with the submission of record drawings pursuant to (k) above.

(n) Notification pursuant to (l) shall include the following information:

- (1) A statement that a landfill exists on this property;
- (2) Identification of the registry of deeds, book and page numbers where title to the property is recorded;
- (3) Identification of the property tax map and lot numbers as identified by the political subdivision in which the facility is located;
- (4) U.S. Geological Survey (USGS) coordinates for the landfill site;
- (5) Description of the facility, including size, type of wastes received, type of liner if any and type of cap;
- (6) Description of closure implemented and identification of the permit issued by the department under which closure occurred, including a statement that the permit might contain certain legal obligations regarding the site;
- (7) A statement that post-closure use of the property shall not disturb the integrity of the final cover, liners, or any other components of the containment systems or the function of the monitoring systems unless approved by the department;
- (8) A statement that any future change in use shall be subject to review and approval by the department pursuant to (o) below; and
- (9) A statement that access shall be assured to department inspection personnel and the permittee for monitoring and maintenance purposes.

(o) The permittee shall obtain department approval, via the permit modification procedures in Env-Sw 315, for any post-closure activity at the site not specifically approved by the facility's permit.

(p) The permittee shall implement such repairs or remedial activities as necessary to assure compliance with the performance standards set forth in Env-Sw 807.04.

PART Env-Sw 808 LANDFILL RECLAMATION

Env-Sw 808.01 Applicability. The rules in this part shall apply to facilities where landfill reclamation activities occur.

Env-Sw 808.02 Approval Required.

(a) Landfill reclamation activities shall proceed only in accordance with approval granted in the form of a permit or permit modification.

(b) The information required by this part shall be submitted with the permit application or application for permit modification.

Env-Sw 808.03 Feasibility Study.

(a) The permittee shall conduct a feasibility study prior to any reclamation activities.

(b) Prior to conducting the feasibility study, a scope-of-work for the study shall be submitted to the department as an application for type I-B permit modification pursuant to Env-Sw 315, including:

- (1) Provisions for a review of existing background data to include:
 - a. Site inspections and personnel interviews;
 - b. Operating history and waste receipt records; and
 - c. Analytical data, engineering records and department records;
- (2) A site plan showing the location of all proposed work areas;
- (3) The proposed number and location of all borings, trenches and test pits;
- (4) A description of all excavation and materials handling operations;
- (5) A description of all material quantification methods, laboratory analyses and test burns which will be used to characterize and estimate the quantities of recyclables, soils, combustibles and other components;
- (6) A description of project management responsibilities with a proposed work schedule;
- (7) A contingency plan as described in Env-Sw 808.05;
- (8) If the facility is closed, a plan for the repair of any damage done to the capping system; and
- (9) If the facility is lined, a plan for the protection of all existing landfill components including liners, leachate collection piping, gas recovery systems, storm water systems and other components as applicable.

(c) The feasibility study field investigation shall not be conducted unless approved by the department as a modification of the permit.

(d) Upon completion of the feasibility study field investigation, the permittee shall submit a report to the department which compiles and interprets the collected data, including the following:

- (1) The results of all sampling and analysis performed on excavated materials;
- (2) The thickness of solid waste fill including the logs of all test pits and test borings;

- (3) Information to characterize the composition and relative quantities of excavated materials, including recyclables, combustibles, soils and other components;
- (4) An evaluation of the suitability of the excavated materials for reuse or recycling, the need for further processing and the expected final disposition;
- (5) An assessment of potential landfill reclamation costs and potential landfill closure costs;
- (6) An assessment of the impacts associated with landfill reclamation; and
- (7) A determination if landfill reclamation is feasible at the facility.

Env-Sw 808.04 Landfill Reclamation Work Plan.

(a) If landfill reclamation is determined to be feasible in accordance with Env-Sw 808.02, and landfill reclamation is to be undertaken, the permittee shall submit a landfill reclamation work plan to the department.

(b) The landfill reclamation work plan shall include the following:

- (1) A detailed plan for the management and control of odors, which specifically addresses measures to avoid the dispersion of offensive odors in residential areas and includes provisions for work stoppage in the event planned odor control measures fail;
- (2) A map showing the location of all inhabited dwellings within 2,000 feet of the reclamation area and the direction of prevailing winds;
- (3) A site plan which details the proposed reclamation area and delineates in plan and cross-sectional view the depth of excavation, proximity to the liner and leachate collection system, if any, other landfill structures and components, and the direction the landfill reclamation will progress;
- (4) A description of the excavation and sorting procedures for all removed materials;
- (5) A contingency plan in accordance with Env-Sw 808.05;
- (6) A description of all procedures, including quality assurance and quality control provisions, for processing, testing, storage, removal, transfer, use and disposal of excavated waste;
- (7) A storm water management and leachate management plan; and
- (8) The procedure for site clean-up and grading after the reclamation with detailed drawings depicting original and final grades.

Env-Sw 808.05 Contingency Plan.

(a) A contingency plan shall be submitted as part of any landfill reclamation work plan and feasibility study.

(b) The contingency plan shall include the following:

- (1) A description of actions to be taken with respect to personnel safety, on-site personnel injury, fires, explosions, landfill gases, dust, odor, noise, vectors and excavation and release of hazardous substances or toxic materials;
- (2) Hazard evaluation and protection from potential hazards, including engineering controls, personal protection equipment and air monitoring techniques;
- (3) Designation of exclusion, decontamination and support zones, decontamination procedures, on-site communication procedures, emergency procedures and access control; and
- (4) Designation of a qualified, full-time site health and safety coordinator.

PART Env-Sw 809 RESERVED

PART Env-Sw 810 PERMIT-EXEMPT LANDFILLS

Env-Sw 810.01 Purpose. The purpose of the rules in this part is to identify landfills which are permit-exempt, pursuant to Env-Sw 302.03.

Env-Sw 810.02 General Exemption Provisions.

- (a) The landfills described in this part shall be exempt from obtaining a permit, subject to the requirements in Env-Sw 810.03.
- (b) A permit exemption shall not affect a person's obligation to obtain all requisite federal, state or local permits, licenses or approvals, or to comply with all other applicable federal, state, district or local permits, ordinances, laws or approvals or conditions pertaining to the permit-exempt activities.

Env-Sw 810.03 Exemption Conditions. All permit-exempt landfills identified in this part shall comply with the following requirements:

- (a) A permit-exempt landfill shall not be located on property that is subject to any ongoing enforcement action by the department, unless approved by the department as part of the enforcement action;
- (b) A permit-exempt landfill shall not adversely affect the operation and closure of any existing facility;
- (c) The owner of the property on which the facility is located shall be designated as the permittee and subject to all obligations related thereto;
- (d) At all times during facility operations, the permittee shall maintain cover materials at the facility site in a sufficient quantity as to comply with the applicable cover requirements;
- (e) During the active life of the facility, the permittee shall control access to the facility in a manner as to prevent unlawful dumping;
- (f) The permittee shall close the facility in conformance with Env-Sw 1006 as follows:
 - (1) No less than 2 feet of clean, compacted soil, and more when specified by the rules in this part, shall be placed as final cover over all landfilled waste;

- (2) Final cover shall be properly graded, seeded and mulched to produce and sustain vegetative growth, or otherwise stabilized to prevent erosion;
- (3) The permittee shall regularly inspect the facility to assure that the cover materials maintain their integrity, that voids and sink holes do not develop, and that the site is otherwise protective of the environment, public health and safety; and
- (4) The permittee shall implement repairs or take other remedial action as necessary to achieve and maintain compliance therewith;
- (g) The facility shall comply with all other requirements specified in Env-Sw 1000 and, depending on the type of waste managed at the facility, Env-Sw 900; and
- (h) All waste managed at the facility shall be actively managed.

Env-Sw 810.04 On-site Asphalt and Masonry Debris Landfills. Asphalt and masonry debris buried at the waste generation site pursuant to Env-Wm 2510.04 as effective on October 29, 1997 shall not be required to be removed provided that:

- (a) The facility buried the following waste types only:
 - (1) Fully cured asphalt, concrete, brick, cement or other inert masonry materials substantially free of protruding reinforcing materials;
 - (2) Fully cured asphalt which is not ground or pulverized; or
 - (3) A combination thereof;
- (b) The buried waste does not include any materials or substances that have the potential to leach contaminants to groundwater or surface water or to emit pollutants to the air, including lead paint, asbestos or chemicals;
- (c) The waste was buried in a manner as to preclude the development of sink holes and to otherwise be protective of the environment, public health and safety; and
- (d) The waste was buried at least 75 feet from all water supply wells and surface waters and at least 4 feet above the seasonal high water table and bedrock.

Env-Sw 810.05 Leachfield Repair Residuals Landfills. Subject to Env-Sw 810.03, no permit shall be required to bury waste soil and stone from the repair or replacement of existing leaching fields regulated under Env-Ws 1000, provided that:

- (a) The burial location shall be on the same property as the waste generation site;
- (b) The buried waste shall be placed at least 4 feet above the seasonal high water table and bedrock; and
- (c) The burial location shall meet the minimum separation distances for leach bed trenches required in Env-Ws 1008.

Env-Sw 810.06 Abandoned Underground Structures. Subject to Env-Sw 810.03, no permit shall be required to bury in place existing abandoned underground structures, such as foundation walls,

footings, pipes and culverts, provided that:

- (a) The abandoned structure shall not include:
 - (1) Materials or substances that have the potential to leach contaminants to groundwater or surface water or to emit pollutants to the air;
 - (2) Treated wood;
 - (3) Insulation; or
 - (4) General construction and demolition debris;
- (b) The abandoned structure shall not be a structure which is required by other rules or regulations to be removed;
- (c) The structure shall be buried in a manner as to preclude the development of sink holes and to otherwise be protective of the environment, public health and safety; and
- (d) The material used to fill and cover the structure shall not be a waste.

Env-Sw 810.07 Incidental Animal Burial. Subject to Env-Sw 810.03, no permit shall be required to bury a deceased animal, provided that:

- (a) The person controlling the land where the animal is buried shall agree to the location of the grave site;
- (b) The grave shall be covered with a sufficient quantity and depth of soil as to avoid disturbance of the burial site by other animals; and
- (c) The grave site shall not constitute a pet cemetery as otherwise regulated under the provisions of Env-Sw 810.08.

Env-Sw 810.08 Pet Cemeteries. Subject to Env-Sw 810.03, no permit shall be required to bury animal carcasses not regulated under Env-Sw 904.01(e) and not exempt pursuant to Env-Sw 810.07, provided that:

- (a) The location shall be at least 100 feet from any property boundary or surface water, 200 feet from a private or community water supply, and 400 feet from a municipal water supply;
- (b) The buried material shall be placed at least 4 feet above the seasonal high water table and bedrock;
- (c) The carcasses shall be covered with at least 3 feet of clean fill immediately following placement in the ground; and
- (d) Written notification shall be provided to the state veterinarian in instances where 10 or more carcasses are buried.

Env-Sw 810.09 Off-site Stump Dumps. Subject to Env-Sw 810.03, no permit shall be required to bury stumps and tree parts thereof received from off-site locations, provided that:

- (a) The burial site is:

- (1) At least 75 feet from any water supply well;
- (2) At least 25 feet from any property line; and
- (3) At least 4 feet above the seasonal high groundwater table;

(b) The stumps and tree parts thereof are buried in a manner as to preclude the development of sink holes and erosion of cover materials, and to otherwise be protective of the environment, public health and safety; and

(c) A notation is recorded in the chain of title for the property on which the burial site is located, to include the following information:

- (1) A statement that the property has been used for the disposal of stumps and tree parts thereof;
- (2) The date the disposal activity took place;
- (3) The location of the burial area(s), with sufficient specificity as to allow an independent third party to locate the area(s); and
- (4) The estimated quantity of waste disposed on the property.

CHAPTER Env-Sw 900 MANAGEMENT OF CERTAIN WASTES

Statutory Authority: RSA 149-M:7

PART Env-Sw 901 ASBESTOS

Env-Sw 901.01 Applicability.

(a) The rules in this part shall apply to the management of asbestos waste, both friable and non-friable.

(b) The rules in this part shall apply to the management of material having the potential to be asbestos waste based on its visual appearance, form, function and other available information, unless testing in accordance with the analytical procedures in 40 CFR 61 determines the waste to be non-asbestos based.

(c) The rules in this part shall apply to wastes and materials that are combined or mixed with asbestos waste.

(d) The rules of this part shall apply from the point of waste origination to the point of waste disposal.

Env-Sw 901.02 Collection, Storage and Transfer Requirements.

(a) Collection, storage and transfer of asbestos waste shall be accomplished in a manner as to prevent the release of asbestos fibers to the environment, and in conformance with the requirements of Env-Sw 400, 40 CFR 61, 29 CFR 1910, 29 CFR 1926, He-P 5000, Env-A 1800 and (b) through (f) below.

(b) Collected asbestos waste that is friable or exhibits friable characteristics shall be processed or treated in accordance with Env-Sw 901.03 prior to storage, transfer or disposal.

(c) Collected asbestos waste shall be packaged and labeled in accordance with Env-Sw 901.06 prior to storage or transfer.

(d) Asbestos waste shall be stored only in areas:

- (1) Restricted from public access;
- (2) Protected from the elements, specifically including wind and water;
- (3) Regularly monitored to assure site security; and
- (4) Conspicuously posted with legible signs imprinted with the following:
 - a. "Danger";
 - b. "Asbestos waste storage area";
 - c. "Dust, cancer and lung disease hazard"; and
 - d. "Authorized personnel only."

(e) The permittee shall notify local fire officials as to the establishment and location of an asbestos storage facility requiring a standard permit to alert responding fire personnel of the potential hazard in the event of a fire.

(f) Asbestos waste shall be transferred only to facilities authorized to receive asbestos waste.

Env-Sw 901.03 Processing and Treatment Requirements.

(a) Asbestos waste shall be processed or treated in accordance with the requirements of Env-Sw 500 and this section, and in accordance with other applicable state rules and federal regulations including 40 CFR 61, 29 CFR 1910 and 1926, Env-A 1800 and He-P 5000.

(b) Prior to packaging, storage or disposal, asbestos waste that is friable or exhibits friable characteristics shall be treated to limit the potential for release of asbestos fibers using one or more of the following methods in accordance with 40 CFR 61 and Env-A 1800:

- (1) Spray with water or amended water;
- (2) Cover with an encapsulant or sealant, using an airless or electrostatic sprayer if the material is hydrophobic; or
- (3) Another method determined pursuant to Env-A 1800 to be functionally equivalent to the above, based on information submitted by the person responsible for the treatment.

(c) Facilities that process or treat asbestos waste shall collect, store and transfer the waste in accordance with the requirements of Env-Sw 901.02.

Env-Sw 901.04 Disposal Requirements.

- (a) Asbestos waste shall be landfilled at authorized facilities only.
- (b) Asbestos waste that is friable or exhibits friable characteristics shall not be landfilled prior to being:
 - (1) Treated in accordance with Env-Sw 901.03; and
 - (2) Packaged and labeled in accordance with Env-Sw 901.06.
- (c) Facilities which landfill asbestos waste shall be equipped and staffed to manage the asbestos in conformance with the solid waste rules, including:
 - (1) Personnel protective equipment pursuant to Env-Sw 901.08(a);
 - (2) Staff trained pursuant to Env-Sw 901.08(a);
 - (3) Equipment for wetting asbestos; and
 - (4) Decontamination equipment.
- (d) Prior to receiving asbestos waste, the landfill operator shall prepare a disposal area within the permitted footprint to allow the asbestos waste to be placed and immediately covered without release of asbestos fibers to the air and without direct contact between the asbestos waste and personnel and equipment.
- (e) Containers of asbestos waste shall be unloaded at landfills in such a manner as to prevent:
 - (1) Release of asbestos fibers;
 - (2) Personal exposure to asbestos fibers; and
 - (3) Direct contact with asbestos fibers by personnel and equipment.
- (f) Non-rigid containers which have been exposed to asbestos waste shall be disposed with the asbestos waste.
- (g) Following placement in the disposal area, asbestos waste shall be immediately covered with at least 3 feet of non-asbestos waste or 18 inches of soil.
- (h) An asbestos waste disposal facility shall compile records pursuant to 40 CFR 61, to include a map or diagram of the disposal area identifying the location, depth, area and quantity of asbestos waste landfilled at the facility.
- (i) Records specified by (h) above shall be maintained in accordance with Env-Sw 1105.06.

Env-Sw 901.05 Reuse Requirements and Limitations.

- (a) Asbestos waste shall not be reused.
- (b) Reuse of containers used for storage or transportation of asbestos waste shall comply with Env-Sw 901.06 (d) through (f).

Env-Sw 901.06 Transportation, Packaging and Labeling Requirements.

(a) Prior to storage, transportation or disposal, asbestos waste shall be packaged and labeled in accordance with state rules and federal regulation, including as applicable, 40 CFR 61, 29 CFR 1910, 29 CFR 1926, Env-A 1800 and this section.

(b) Prior to being packaged, asbestos waste that is friable or exhibits friable characteristics shall be treated in accordance with Env-Sw 901.03.

(c) Bags used for disposal of friable asbestos waste shall be made of at least 6 mil polyethylene or a functional equivalent.

(d) Bags identified in (c) above shall not be reused.

(e) Containers receiving bulk unwrapped asbestos waste shall be lined with at least 20 mil polyethylene or its functional equivalent.

(f) The liner material identified in (e) above shall not be reused.

(g) A waste shipment record shall accompany all asbestos waste when transported, pursuant to the provisions of 40 CFR 61.

(h) Asbestos waste transporters shall comply with United States Department of Transportation regulations and New Hampshire department of safety rules, as applicable.

(i) Asbestos waste transporters shall notify the receiving landfill prior to delivering a shipment of asbestos waste, so as to provide the landfill operator with the opportunity to properly prepare the disposal area pursuant to Env-Sw 901.04.

Env-Sw 901.07 Testing and Reporting Requirements.

(a) If during transportation a person spills one pound or more of asbestos waste that is friable or exhibits friable characteristics, the person shall immediately report the incident by telephone to the following agencies and entities:

(1) The department's air resources division and waste management division;

(2) The hazardous material team at the department of safety; and

(3) The national response center.

(b) The analytical testing procedures specified in 40 CFR 61 shall be used to determine whether a waste is asbestos waste.

Env-Sw 901.08 Other Requirements.

(a) Personnel handling asbestos waste shall be trained and equipped as required by 29 CFR 1910 and He-P 5000.

(b) Asbestos waste shall not be intentionally combined or mixed with other waste types prior to disposal.

(c) Asbestos waste shall not be incinerated.

- (d) Asbestos waste and waste mixtures shall not be composted.
- (e) Asbestos waste and waste mixtures shall not be land applied.

PART Env-Sw 902 ASH

Env-Sw 902.01 Applicability.

- (a) Except as provided in (b) and (c) below, the rules in this part shall apply to management of bottom ash and fly ash from the point of origin to the point of final disposal.
- (b) The rules in this part shall not apply to:
 - (1) Ash generated by private residences from the combustion of wood or fossil fuel;
 - (2) Ash from crematoriums;
 - (3) Wood ash certified for distribution and use pursuant to Env-Sw 1700, provided it is distributed and used in accordance with the certification; and
 - (4) Boiler slag from the combustion of coal managed in accordance with Env-Sw 302.03(b)(9).

Env-Sw 902.02 Collection, Storage and Transfer Requirements.

- (a) Collection, storage and transfer of ash shall comply with the requirements of Env-Sw 400 and this section.
- (b) Ash shall be collected and stored in containers in a manner which:
 - (1) Avoids the dispersion of ash residue, including particulates;
 - (2) Is fire safe;
 - (3) Prevents rain water infiltration; and
 - (4) Collects and controls the free liquid that drains from the ash, if the ash is quenched or treated with applied liquids.
- (c) Prior to transfer, ash generators shall comply with the hazardous waste determination requirements in Env-Wm 502 and thereby assure proper management of the ash as follows:
 - (1) If the ash is determined to be a hazardous waste, it shall be managed as a hazardous waste in accordance with all applicable state rules and federal hazardous waste regulations; and
 - (2) If the ash is determined to be non-hazardous, it shall be managed as a solid waste in accordance with this part.
- (d) Ash shall not be transferred from the generator's collection area until cooled sufficiently as to eliminate the potential to cause fire and burn injury.
- (e) The transfer of ash from one location to another shall comply with the requirements of Env-

Sw 902.06.

(f) Prior to unloading, ash shipments received by a collection, storage and transfer facility shall be inspected by the receiving facility to determine whether the load is hot.

(g) Hot ash shall not be deposited at a receiving facility where it might start a fire or cause burn injury.

(h) Hot ash shall be segregated from combustible materials, contained and extinguished.

Env-Sw 902.03 Processing and Treatment Requirements.

(a) Processing and treatment of ash shall comply with the requirements of Env-Sw 500 and this section.

(b) Processing and treatment of ash shall be carried out in a manner which:

(1) Avoids the dispersion of ash residue, including particulates;

(2) Is fire safe;

(3) Prevents rainwater infiltration; and

(4) Collects and controls the free liquid that drains from the ash, if quenched or treated with applied liquids.

(c) Prior to unloading, ash shipments received by a processing or treatment facility shall be inspected by the receiving facility to determine whether the load is hot.

(d) Hot ash shall not be deposited at a receiving facility where it might start a fire or cause burn injury

(e) Hot ash shall be segregated from combustible materials, contained and extinguished.

Env-Sw 902.04 Disposal Requirements.

(a) Ash shall be disposed only at authorized facilities.

(b) If disposed in a New Hampshire landfill, the facility shall be a lined facility meeting the requirements of Env-Sw 800 as follows:

(1) Ash from the combustion of municipal solid waste shall be disposed in double lined facilities only;

(2) Ash from the combustion of coal may be disposed in either a double lined facility or single lined facility as provided by (3) below; and

(3) Coal ash shall be disposed in a single lined facility only if:

a. The facility shall be a monofill; and

b. The required groundwater monitoring system shall be designed to serve as a leak detection system.

(c) Prior to unloading, ash shipments received by a New Hampshire landfill shall be inspected by the receiving facility to determine whether the load is hot.

(d) Hot ash shall not be deposited where it might start a fire or cause burn injury.

(e) Hot ash shall be segregated from combustible materials, contained and extinguished.

Env-Sw 902.05 Reuse Requirements and Limitations. Ash and ash-derived products shall be certified in accordance with Env-Sw 1500 prior to distribution and use in New Hampshire.

Env-Sw 902.06 Transportation, Packaging and Labeling Requirements.

(a) Ash shall be transported in a manner which shall prevent dispersion of ash residue, including particulates.

(b) Ash shall not be transported in or through New Hampshire unless the generator has first completed a hazardous waste determination in accordance with Env-Wm 502.

(c) Ash shall not be transported unless cooled sufficiently to eliminate the potential for fire or burn injury while in-transit and following delivery.

(d) Ash that is quenched or contains free liquid shall be transported in leak tight containers or shall be sufficiently dry prior to transport as to preclude the discharge of liquids from the transportation vehicle while in-transit.

Env-Sw 902.07 Testing and Reporting Requirements.

(a) The ash generator shall comply with the hazardous waste determination requirements in Env-Wm 502 by developing and implementing a quality assurance/quality control (QA/QC) plan for ash sampling and analysis.

(b) The QA/QC plan for ash sampling and analysis shall specify:

(1) The procedures by which representative samples of ash will be obtained;

(2) The contaminants and parameters for which testing will be conducted;

(3) The data analysis necessary to demonstrate the level of precision and accuracy are acceptable; and

(4) The testing methods.

(c) Ash testing results and QA/QC plan information shall be maintained by the ash generator and made available to department for inspection pursuant to Env-Sw 2000 and the hazardous waste rules.

Env-Sw 902.08 Other Requirements.

(a) A New Hampshire facility that receives ash generated in another state shall obtain from the ash generator copies of the required hazardous waste determination.

(b) Information pursuant to (a) above shall be maintained by the permittee as part of the facility operating records pursuant to Env-Sw 1105.06.

PART Env-Sw 903 CONTAMINATED SOILS AND MEDIA

Env-Sw 903.01 Applicability.

(a) Except as provided by (b) below, the rules in this part shall apply to facilities that manage soils and absorbent media contaminated with liquids not regulated as hazardous waste, including certain oils, greases, fats, tars and petroleum products.

(b) The rules in this part shall not apply to soils contaminated with oil and regulated pursuant to Env-Wm 1600, namely oil contaminated soils managed at the waste generation site.

Env-Sw 903.02 Collection, Storage and Transfer Requirements.

(a) Collection, storage and transfer of contaminated soils and absorbent media shall comply with the requirements of Env-Sw 400 and this section.

(b) Contaminated soils and absorbent media shall be collected and stored in leak tight containers or be underlain by impermeable surfaces or by other means to prevent the discharge of contaminants to groundwater and surrounding soils.

(c) Contaminated soils and absorbent media shall be stored under cover in a manner that protects the waste from exposure to precipitation or by a method that collects and manages all leachate generated.

(d) Contaminated soils and absorbent media shall be stored in accordance with applicable air and water quality rules and regulations.

(e) Prior to transfer, the generator shall comply with the testing requirements in Env-Sw 903.07 to assure proper management of the contaminated soils or absorbent media as follows:

(1) If the contaminated soil or absorbent media is determined to be a hazardous waste, it shall be managed as a hazardous waste in accordance with all state rules and federal regulations for managing hazardous waste; and

(2) If the contaminated soil or absorbent media is determined to be non-hazardous, it shall be managed in accordance with the solid waste rules.

(f) Prior to receiving contaminated soils or absorbent media from off-site locations, a facility shall obtain documentation from the generator demonstrating compliance with (e) above.

(g) A facility that collects contaminated soils or absorbent media from off-site locations shall inspect the waste upon receipt and verify that the waste is the same waste as characterized by the generator in conformance with Env-Sw 903.07.

Env-Sw 903.03 Processing and Treatment Requirements.

(a) Processing and treatment of contaminated soils and absorbent media shall comply with the requirements of Env-Sw 500 and this section.

(b) A facility that processes or treats contaminated soils and media shall employ technologies demonstrated to successfully manage the specific contaminants present in the soil or media.

(c) A facility that processes or treats contaminated soils or absorbent media shall comply with

the waste collection, storage and transfer requirements in Env-Sw 903.02.

(d) Contaminated soils and absorbent media shall be processed or treated in compliance with applicable air and water quality rules and regulations.

Env-Sw 903.04 Disposal Requirements.

(a) The disposal of contaminated soils and absorbent media shall occur only at authorized facilities.

(b) Prior to disposal, contaminated soils and absorbent media shall be tested in accordance with the requirements of Env-Sw 903.07 and the receiving facility's permit.

(c) Contaminated soil and absorbent media from out-of-state shall not be disposed in a NH landfill if it fails the disposal criteria of its state of origin.

Env-Sw 903.05 Reuse Requirements and Limitations.

(a) Contaminated soils and media, if reused for purposes other than those provided in (b) and (c) below, shall not be distributed and used except in accordance with certification pursuant to Env-Sw 1500.

(b) Contaminated soil and absorbent media may be used as daily landfill cover at facilities permitted to dispose of the contaminated soil or absorbent media, provided that:

(1) When used at an unlined landfill, the contaminant concentrations shall not exceed:

a. The concentrations specified in Table 900-1; or

b. The concentrations calculated using the methods described in ASTM-E 1739-95e1 entitled "Standard Guide to Risk-Based Corrective Action Applied at Petroleum Release Sites," dated November 1995, for all constituents listed in Table 900-1 and all other contaminants reasonably thought to be present based on generator knowledge and history of the site of generation;

(2) The material shall meet the requirements for alternative daily cover specified in Env-Sw 806.03; and

(3) The material shall not be stored or otherwise placed outside the active footprint of the facility.

(c) Contaminated soil and absorbent media may be used as unspecified fill material to achieve final grades prior to closure at unlined landfills provided the contaminant levels in the material shall be below the levels specified in (b)(1) above.

(d) Contaminated soil, if distributed and used as soil for purposes other than those provided in (b) and (c) above, shall be certified for distribution and use pursuant to Env-Sw 1500 based on the following:

(1) The concentration of contaminants in the soil shall be no greater than the concentrations specified in (b)(1) above, except:

a. Heavy metals shall not exceed the concentrations specified in Env-Sw 800; and

b. The concentration of total petroleum hydrocarbons in the soil shall be less than

100 parts per million;

- (2) The soil shall not be distributed or used in any:
- a. Residential applications;
 - b. Playground applications;
 - c. Fill in a 100-year floodplain or wetland;
 - d. Application to land used for the production of crops for direct human consumption;
 - e. Application within a recharge area of any sole source drinking water supply; or
 - f. Within 100 feet from any surface water; and

(3) The distributor shall comply with the product disclosure requirements in Env-Sw 1502.04 and the recordkeeping requirements in Env-Sw 505.07(f).

(e) Contaminant concentrations shall not exceed those specified in Table 900-1, below:

Table 900-1

Maximum Contaminant Concentrations	
Regulated Contaminant	Standard
Acenaphthene	1,000 mg/kg
Acenaphthylene	1,000 mg/kg
Anthracene	1,000 mg/kg
Benzene	0.3 mg/kg
Benzo(a)anthracene	0.7 mg/kg
Benzo(a)pyrene	0.7 mg/kg
Benzo(b)fluoranthene	7 mg/kg
Benzo(k)fluoranthene	7 mg/kg
Cadmium	32 mg/kg
Chromium (III)	1,000 mg/kg
Chromium (VI)	170 mg/kg
Chrysene	70 mg/kg
Dibenzo(a,h)anthracene	0.7 mg/kg
Dichloroethane, 1,2-	0.09 mg/kg
Ethylbenzene	90 mg/kg
Fluoranthene	810 mg/kg
Fluorene	510 mg/kg
Indeno(1,2,3-cd)pyrene	0.7 mg/kg
Isopropylbenzene	23 mg/kg
Lead	400 mg/kg
Mercury (inorganic)	4 mg/kg
Methylnaphthalene, 2-	150 mg/kg
Methyl-t-butyl ether	3 mg/kg
Naphthalene	3 mg/kg
Nickel	1,000 mg/kg
Selenium	270 mg/kg

Silver	170 mg/kg
Toluene	100 mg/kg
Xylene	810 mg/kg
Zinc	1,000 mg/kg
Alkylbenzenes Butylbenzene, n- Butylbenzene, sec- Butylbenzene, tert- Isopropyl toluene, 4- Propylbenzene, n- Trimethylbenzene, 1,2,4- Trimethylbenzene, 1,3,5-	Total 61 mg/kg
Non-Carcinogenic PAH Group Pyrene, Benzo (g,h,i) Perylene and Phenanthrene	Total 610 mg/kg
Total Petroleum Hydrocarbons	10,000 mg/kg

Env-Sw 903.06 Transportation Requirements.

- (a) Contaminated soil and absorbent media shall be transported using a standard bill of lading.
- (b) Contaminated soil and absorbent media shall be transported in a manner which shall prevent dispersion of the waste to the air, ground or waterways.
- (c) Contaminated soil and absorbent media shall not be transported from the site of generation prior to completing a hazardous waste determination pursuant to Env-Wm 502.

Env-Sw 903.07 Testing and Reporting Requirements.

- (a) The generator of contaminated soil or absorbent media shall comply with the hazardous waste determination requirements in Env-Wm 502 and the other testing requirements in Env-Wm 1600, as applicable, prior to transferring the waste off-site if generated in New Hampshire or prior to transporting into New Hampshire if generated out-of-state.
- (b) The generator shall produce records of testing pursuant to (a) above for inspection by the department pursuant to Env-Sw 1200.

PART Env-Sw 904 INFECTIOUS WASTE

Env-Sw 904.01 Applicability.

- (a) The rules in this part shall apply to management of infectious waste and treated infectious waste which is not ash residue, from the point of origin to the point of final disposal, including the following:

- (1) Cultures and stocks of infectious agents and associated biologicals, including:

- a. Cultures and stocks of infectious agents from research and industrial laboratories;
 - b. Wastes from the production of biologicals, discarded live and attenuated vaccines; and
 - c. Culture dishes and devices used to transfer, inoculate and mix cultures;
- (2) Pathological wastes, including tissues, organs, and body parts that were removed during surgery or autopsy;
- (3) Waste human blood and products of blood, including:
 - a. Serum, plasma and other blood components;
 - b. Containers contaminated with a. above which were used or intended for use in either patient care, testing and laboratory analysis or the development of pharmaceuticals; and
 - c. Items saturated or dripping with human blood or items that were saturated or dripping with human blood that are now caked with dried human blood or blood components;
- (4) Sharps that have been used in human or animal patient care or in medical, research, or industrial laboratories, including hypodermic needles, syringes, pasteur pipettes, broken glass and scalpel blades;
- (5) Contaminated animal carcasses, body parts, and bedding of animals that were exposed to infectious agents during research, production of biologicals, or testing of pharmaceuticals;
- (6) Wastes from human or animal patient care, surgery or autopsy that were in contact with infectious agents, including soiled dressings, sponges, drapes, lavage tubes, drainage sets, underpads, and surgical gloves;
- (7) Laboratory wastes from medical, pathological, pharmaceutical, or other research, commercial or industrial laboratories that were in contact with infectious agents, including slides and cover slips, disposable gloves, laboratory coats, and aprons;
- (8) Dialysis wastes that were in contact with the blood of patients undergoing hemodialysis, including contaminated disposable equipment and supplies such as tubing, filters, disposable sheets, towels, gloves, aprons, and laboratory coats;
- (9) Discarded medical equipment and parts that were in contact with infectious agents;
- (10) Biological waste and discarded materials contaminated with blood, excretion, exudates or secretion from humans or animals who are isolated to protect others from communicable diseases;
- (11) Any discarded preparations made from genetically altered living organisms and their products; and
- (12) Such other waste material that results from the administration of medical care to a patient whether human or animal by a health care provider and is found by the director in consultation with the division of public health services or state veterinarian to pose a threat to

human health or the environment due to its infectious nature.

- (b) The rules in this part shall not apply to the following types of waste:
 - (1) Gloves, gowns, underpads or any other materials that come in contact with patients, but not saturated with blood, body fluids or secretions, through routine examination or patient care;
 - (2) Animal carcasses not included in (a)(5) above; and
 - (3) Household infectious waste, provided that:
 - a. Sharps shall be enclosed inside rigid, puncture-resistant containers;
 - b. Containers encasing sharps shall be sealed and labeled “not for recycling”; and
 - c. The waste shall be disposed at an authorized facility only.

Env-Sw 904.02 Collection, Storage and Transfer Requirements.

- (a) Collection, storage and transfer of infectious waste shall comply with the requirements of Env-Sw 400 and this section.
- (b) The waste shall be stored in a pre-designated location, protected from water, rain and wind.
- (c) Storage containers and packaging shall be labeled conspicuously in a legible manner with the words “infectious waste,” or “biohazard waste,” or with the universal biohazard symbol.
- (d) Waste stored at generator facilities shall be maintained in a nonputrescent state, using refrigeration when necessary.
- (e) Waste shall not be stored at room temperatures in excess of 72 hours.
- (f) Outdoor storage areas containing the waste, such as dumpsters, sheds, tractor trailers, or other storage areas, shall be locked to prevent unauthorized access.
- (g) Access to on-site storage areas shall be limited to authorized persons.
- (h) The waste shall be stored in a manner that shall provide protection from animals and shall not provide a breeding place or a food source for insects or rodents.
- (i) Storage containers and packaging shall be of sufficient structural integrity to ensure that the waste shall not be released to the environment during storage.
- (j) The contents of damaged or ruptured containers shall be re-packaged.
- (k) Infectious waste shall be transferred by the generator to authorized facilities only.
- (l) Facilities which receive infectious waste from off-site generators shall not store the waste in excess of 7 days from date of receipt.

Env-Sw 904.03 Processing and Treatment Requirements.

(a) Except as noted in Env-Sw 904.08, the generator of infectious waste shall assure that the waste is treated at an authorized facility to achieve high-level disinfection plus a 4 log 10 reduction of Bacillus subtilis or Bacillus stearothermophilus.

(b) Facilities that process or treat infectious waste in New Hampshire, including generator facilities, shall meet the requirements of (a) above in conformance with the requirements of Env-Sw 500 and the following:

(1) All infectious waste managed by the facility shall be collected and stored as specified in Env-Sw 904.02, pending treatment in accordance with (a) above;

(2) If the facility processes or treats infectious waste by methods other than incineration, the efficacy of the processing or treatment method shall be demonstrated by testing as specified in Env-Sw 904.07; and

(3) If the facility is an incinerator that treats the infectious waste by combustion, the facility shall meet the requirements of Env-Sw 700.

(c) Infectious waste treated under (a) above shall not be combined or mixed with other waste prior to disposal, unless authorized by the receiving disposal facility.

Env-Sw 904.04 Disposal Requirements.

(a) Infectious waste shall not be landfilled in New Hampshire unless treated to achieve the standard specified in Env-Sw 904.03(a).

(b) Treated infectious waste shall be disposed at authorized facilities only.

(c) Notification shall be given by the transporter to the receiving facility prior to the disposal of treated infectious waste.

(d) Liquid infectious waste may be disposed via a sanitary sewer, subject to the provisions of local sewer ordinances and regulations, only if the receiving wastewater treatment facility includes secondary treatment.

Env-Sw 904.05 Reuse Requirements and Limitations.

(a) Infectious waste shall not be reused or certified for distribution and use pursuant to Env-Sw 1500, except as provided in (b) below.

(b) Materials or equipment contaminated with infectious waste, for example surgical equipment, maintenance carts, bedding, waste containers and the like, may be salvaged and reused in-kind pursuant to Env-Sw 1503.04, subject to the following requirements:

(1) If reused within the generating facility, the materials and equipment shall be cleaned and disinfected prior to reuse to achieve the standards for disinfection prescribed by the facility's internal management protocol; and

(2) If sent off-site for reuse, the materials and equipment shall be cleaned and disinfected prior to leaving the generating facility to achieve at least the level of treatment specified in Env-Sw 904.03(a).

Env-Sw 904.06 Transportation, Packaging and Labeling Requirements.

(a) Infectious waste transported off-site for treatment prior to disposal shall be transported in conformance with the United States Department of Transportation hazardous materials regulations as provided in 49 CFR 171-180 or as specified in (b) below.

(b) The transportation of infectious waste not subject to 49 CFR 171-180 shall be subject to the following:

(1) Sharps as described in Env-Sw 904.01(a)(4) shall be segregated and encased inside rigid, puncture-resistant containers;

(2) Infectious waste and sharps containers shall be placed in a sealed nonpermeable 3 mil polyethylene bag or equivalent, which is itself placed in a second bag of similar construction and sealed; and

(3) The outermost container or package shall be labeled with the following:

a. Clear markings indicating the contents which shall include the words "Infectious waste," or "Biohazard waste" or the universal biohazard symbol; and

b. The name, address and telephone number of the generator and transporter.

(c) Transporters shall notify the receiving facility prior to delivering infectious waste to a New Hampshire landfill.

Env-Sw 904.07 Testing and Reporting Requirements. Facilities, including generator facilities, which treat infectious waste by methods other than incineration shall be subject to the following:

(a) QA/QC efficacy testing shall be performed during initial facility operations to verify facility operating procedures meet the requirements of Env-Sw 904.03(a);

(b) Following verification as specified in (a) above, the facility shall perform QA/QC efficacy testing no less than 4 times yearly, to demonstrate compliance with Env-Sw 904.03(a); and

(c) The facility shall maintain the records of QA/QC efficacy testing for a minimum of 3 years.

Env-Sw 904.08 Other Requirements. Limbs and recognizable organs, excluding teeth and contiguous gum tissue, shall be disposed by incineration or interment.

PART Env-Sw 905 TIRES

Env-Sw 905.01 Applicability. The rules in this part shall apply to the management of waste or scrap tires, from the point of waste origination to the point of waste disposal.

Env-Sw 905.02 Collection, Storage and Transfer Requirements.

(a) Tires shall be collected, stored and transferred in accordance with the requirements of Env-Sw 400 and this section.

(b) Outdoor storage of tires shall be in:

(1) Covered trailers;

- (2) Transfer containers; or
- (3) In stockpiles as follows:
 - a. The diameter of the piles shall not exceed 25 feet;
 - b. The height of the piles shall not exceed 15 feet;
 - c. Fire lanes no less than 25 feet in width shall be maintained around each pile;
 - d. Each pile shall have a berm with a minimum height of 12 inches constructed around its perimeter capable of containing any pyrolytic oils or other liquids generated by fire; and
 - e. The stockpiling facility shall have equipment, cover material and other supplies, including water, sufficient to control a fire until the nearest fire company capable of extinguishing the fire arrives.
- (c) Indoor storage shall conform to the applicable requirements of Saf-C 6000.

Env-Sw 905.03 Processing and Treatment Requirements.

- (a) Chipping, shredding and other physical processing of tires shall comply with the requirements in Env-Sw 500 and this section.
- (b) Collection and storage of tires by facilities that process or treat tires shall conform to the requirements of Env-Sw 905.02.
- (c) Processing of tires shall be done in a manner to limit noise, odor and fugitive dust emissions to the greatest extent possible.

Env-Sw 905.04 Disposal Requirements.

- (a) Waste tires shall be disposed at authorized facilities only.
- (b) Tires shall be landfilled only in a manner that shall preclude movement of the tires after burial, such as by shredding, splitting or quartering the tires prior to landfilling or by filling the tires during landfilling.

Env-Sw 905.05 Reuse Requirements and Limitations.

- (a) Waste tires, if reused, shall be certified for distribution and use in accordance with Env-Sw 1500.
- (b) Tires shall not be certified for distribution and use if distribution and use:
 - (1) Constitutes a fire hazard;
 - (2) Provides a habitat for breeding mosquito populations;
 - (3) Constitutes a safety hazard;
 - (4) Constitutes a nuisance; or

- (5) Violates any federal regulation or state rule.

Env-Sw 905.06 Transportation Requirements. Tires, either whole or processed, shall be transported in a manner to prevent blowing or falling debris.

Env-Sw 905.07 Testing and Reporting Requirements. Facilities managing tires shall comply with the reporting requirements specified in Env-Sw 400 through Env-Sw 1200, as applicable.

Env-Sw 905.08 Other Requirements.

- (a) The open burning of tires or processed tires shall be prohibited.
- (b) Tires shall be managed in a manner as to avoid establishing habitat for breeding mosquito populations.

CHAPTER Env-Sw 1000 UNIVERSAL FACILITY REQUIREMENTS

Statutory Authority: RSA 149-M:7

PART Env-Sw 1001 PURPOSE AND APPLICABILITY

Env-Sw 1001.01 Purpose. The purpose of the rules in this chapter is to ensure that facilities are located, designed, constructed, operated and closed in a manner that does not endanger public health or adversely affect the environment and which minimizes the potential for accidents that could lead to personal injury or property damage.

Env-Sw 1001.02 Applicability. The rules in this chapter shall apply to all facilities, including permit-exempt facilities.

PART Env-Sw 1002 UNIVERSAL ENVIRONMENTAL PERFORMANCE REQUIREMENTS

Env-Sw 1002.01 Environmental Conservation and Protection. Facilities shall be located, designed, constructed, operated and closed in a manner that conserves natural resources and is protective of the natural environment, human health and safety.

Env-Sw 1002.02 Discharge of Pollutants Prohibited.

- (a) Facilities and practices shall not cause a discharge of pollutants into surface waters of the United States or the state in violation of Section 402 of the Clean Water Act, 33 U.S.C. 1342.
- (b) Facilities and practices shall not cause a discharge of dredged material to waters of the United States in violation of RSA 482-A or Section 404 of the Clean Water Act, 33 U.S.C. 1344.
- (c) Facilities and practices shall not cause a non-point source of pollution that contravenes the requirements of an areawide or statewide water quality management plan under Section 319 of the Clean Water Act, 33 U.S.C. 1329.
- (d) Facilities and practices shall not contaminate surface water or groundwater in violation of federal or state law, any rules implemented by the department or any administratively-attached board, or the conditions of any permit issued by the department or any administratively-attached board.
- (e) Facilities and practices shall not cause air pollution in violation of federal or state law, any air

quality rules implemented by the department or the conditions of any air quality permit issued by department, or the New Hampshire Clean Air Act state implementation plan filed pursuant to 42 U.S.C. 7410.

Env-Sw 1002.03 Protection of Wildlife. Facilities or practices shall not adversely affect endangered or threatened species.

Env-Sw 1002.04 Safety.

(a) Facilities and practices shall not cause concentrations of explosive gases such as methane to exceed 25% of the lower explosive limit of the gases in any structure, excluding facility-related gas recovery equipment, or to exceed 50% of the lower explosive limit of the gases at the property boundary.

(b) Facilities shall be designed, constructed, operated and closed in a manner that minimizes the risk of fires and provides the ability to deal with them effectively if they occur.

(c) Facilities that manage putrescible waste and are located within 10,000 feet (3,048 meters) of any airport runway used by turbojet aircraft or within 5,000 feet (1,524 meters) of any airport runway used by only piston-type aircraft shall be designed, constructed, operated and closed in a manner that minimizes the risk of attracting birds that may be hazardous to aircraft.

(d) Facilities and practices shall comply with the rules adopted by the New Hampshire department of labor relative to employee safety and health, Lab 1400.

Env-Sw 1002.05 Dams, Flowage and Flood Provisions.

(a) Facilities and practices shall comply with RSA 482 relative to dams and flowage.

(b) Facilities and practices shall protect all waste storage, handling and disposal areas against impact from the 100-year flood.

PART Env-Sw 1003 UNIVERSAL SITING REQUIREMENTS

Env-Sw 1003.01 Distance to Other Facilities. A facility or practice shall not physically interfere with the proper operation or closure of any other facility.

Env-Sw 1003.02 Easements and Rights-of-Way. The location of a facility shall be outside the limits of any right-of-way or easement, except as provided by Env-Sw 1003.03.

Env-Sw 1003.03 Property Ownership and Access Rights.

(a) The location of a facility shall be on property owned by the permittee or on property for which the property owner has granted a lease, easement or other legal right to the permittee for use of the property for said purpose, including access to the property when required by the permittee and department for closure and post-closure monitoring of the facility and site.

(b) The location of a facility may be on property where a right-of-way, easement or other legal right for use of the property is granted to a third party, provided that the grant shall not adversely affect the permittee's ability to meet all facility requirements pursuant to RSA 149-M, the solid waste rules and the terms and conditions of the permit.

Env-Sw 1003.04 Groundwater and Surface Waters.

(a) No facility shall be located in violation of RSA 483, relative to management and protection of rivers.

(b) No facility shall be located in violation of RSA 485, RSA 485-A and RSA 485-C, relative to protection of groundwater.

Env-Sw 1003.05 Wetlands. No facility shall be located in violation of RSA 482-A, relative to protection of wetlands.

Env-Sw 1003.06 Shoreland Protection. No facility shall be located in violation of RSA 483-B, relative to protection of shorelands.

Env-Sw 1003.07 Designated Rivers. No facility shall be sited in violation of RSA 483, relative to protection of designated rivers.

PART Env-Sw 1004 UNIVERSAL DESIGN REQUIREMENTS

Env-Sw 1004.01 Basic Design Requirements.

(a) The design of a facility shall be compatible with achieving the universal environmental performance requirements in Env-Sw 1002.

(b) The design of a facility shall facilitate operations in accordance with the universal operating standards in Env-Sw 1005 and all other requirements of the solid waste rules, as applicable.

Env-Sw 1004.02 Roads and Traffic Control.

(a) The design of the facility as it relates to the management of traffic on roads leading to and from the facility's entrance and exit points shall meet all applicable local standards if the roads are municipal streets or roads or, if the roads are state roads, shall meet the requirements of the New Hampshire department of transportation.

(b) A facility shall be designed to prevent entering and exiting vehicles from obstructing the safe flow of traffic on any public road leading to or from facility.

(c) Adequate on-site area at the facility's entrance and exit points shall be provided to allow the number and types of waiting vehicles expected to use the facility during peak times to safely queue off the public road(s) and right-of-way.

(d) A facility shall be designed to accommodate on-site traffic flow in a safe and efficient manner in all weather conditions.

(e) Separate on-site access for passenger vehicles shall be provided at facilities where public drop-off is allowed.

(f) A facility shall be designed to assure that traffic conflicts shall not occur between bulk transport vehicles, passenger vehicles and pedestrians at the facility site.

(g) The on-site road surface and the road base shall be suitable for heavy vehicles and capable of withstanding expected loads.

Env-Sw 1004.03 Drainage.

(a) Site drainage features shall be designed in accordance with the requirements of RSA 485-A:17.

(b) Detention basins and other drainage structures shall be located and designed to minimize the potential to adversely impact any landfill closure system located at or near the site.

(c) Surface drainage shall be collected and directed to discharge points having no potential to affect the performance of any groundwater or surface water monitoring system, leachate collection and removal system, or any other component of a landfill closure system.

Env-Sw 1004.04 Protection of Landfill Closure Systems. The design of a facility shall include measures or features to avoid damage during construction and operation of the facility to any component of a landfill closure system, including:

- (a) Ground control markers;
- (b) The capping system;
- (c) Leachate collection system risers and clean-outs;
- (d) Groundwater monitoring wells; and
- (e) Decomposition gas control devices.

Env-Sw 1004.05 Wastewater Systems. All wastewater collection, transmission and treatment features which are part of or specifically serve a facility shall be designed in accordance with RSA 485-A.

Env-Sw 1004.06 Motor Vehicle Waste Collection. Pursuant to RSA 149-M:9, IV, a facility which receives motor vehicle wastes shall be designed to provide for separation of such wastes.

Env-Sw 1004.07 Equipment.

(a) Equipment shall be installed at a facility in conformance with the manufacturer's specifications and recommendations for installation, unless otherwise allowed by the solid waste rules.

(b) Pursuant to RSA 149-M:10, II, municipalities and waste haulers shall affix ownership identification or facility or company logo to all waste containers used in conjunction with the operation of a facility.

PART Env-Sw 1005 UNIVERSAL OPERATING REQUIREMENTS

Env-Sw 1005.01 General Operating Requirements.

(a) A facility shall not exceed the capacity limits specified in its permit or, in the case of a permit-exempt facility, the capacity limits specified by the exemption, if any.

(b) A facility shall operate in a manner consistent with the design limitations of the facility and associated equipment.

(c) Facility equipment shall be operated and maintained in conformance with manufacturer specifications and recommendations unless otherwise allowed by the solid waste rules.

(d) A facility, including associated equipment, containers and vehicles, shall be operated and

maintained in a manner that controls to the greatest extent practicable:

- (1) Dust;
- (2) Litter;
- (3) Insects;
- (4) Odors;
- (5) Vectors;
- (6) Spills;
- (7) The production of leachate;
- (8) Fire hazards including spontaneous combustion;
- (9) The generation of methane and other hazardous or explosive gases;
- (10) Noise; and
- (11) Nuisances.

(e) The permittee shall regularly inspect, monitor and maintain the facility to assure compliance with the permit and the solid waste rules.

(f) The permittee shall execute facility repairs and correct, abate and remediate facility operating problems in a timely manner and as directed by the department in conformance with the solid waste rules.

Env-Sw 1005.02 Unauthorized Use Prohibited. Unauthorized entry to and unauthorized use of a facility shall be prohibited by:

- (a) Restricting access to the facility;
- (b) Regularly inspecting the waste received and managed at the facility; and
- (c) Other appropriate measures based on the type, size, location and life expectancy of the facility and the type, source and quantity of waste handled by the facility.

Env-Sw 1005.03 Traffic Management.

(a) Facility operations shall be conducted in a manner that shall not allow incoming or exiting vehicles to obstruct the safe passage of traffic on any public road leading to and from the facility.

(b) Facility operations shall be conducted in a manner as to accommodate on-site traffic flow in a safe and efficient manner.

Env-Sw 1005.04 Reuse of Waste.

(a) A waste, including waste-derived products, shall be distributed and used only in accordance with Env-Sw 1500.

- (b) A waste stored for reuse shall be stored in a manner that protects its market value.
- (c) A facility shall disclose the following information to consumers of waste-derived product(s) distributed by the facility for use:
 - (1) The content and nature of the waste-derived products;
 - (2) The proper uses of the waste-derived products and any restrictions related thereto;
 - (3) Any hazards that might result from use of the waste-derived products;
 - (4) Proper methods for disposal of the waste-derived product; and
 - (5) Other such information as might be required by applicable federal and state consumer protection rules and regulations.

Env-Sw 1005.05 Public Benefit.

- (a) A facility shall comply with the requirements of RSA 149-M:11, X, relative to providing a substantial public benefit.
- (b) The following facilities shall be deemed to provide a substantial public benefit and therefore need not make an explicit demonstration of public benefit in a permit application:

- (1) A permit-exempt facility;
- (2) A permit-by-notification facility;
- (3) An emergency permit facility; and
- (4) A research and development facility.

- (c) The following facilities shall be deemed to satisfy the first criteria for public benefit in RSA 149-M:11, III(a) and therefore need only address the remaining 2 criteria in RSA 149-M:11, III(b) and (c) when making a demonstration of public benefit in an application for a permit or permit modification:

- (1) Any limited public facility; and
- (2) Any limited private facility.

Env-Sw 1005.06 Operator Qualifications.

- (a) A facility operator shall be capable of efficiently operating and maintaining the facility in a manner which is protective of the environment, public health and safety.
- (b) A facility operator shall demonstrate a level of knowledge and understanding of the solid waste rules sufficient to operate the facility in compliance with all applicable requirements of the solid waste rules and the facility permit.
- (c) Operators of a level I facility, as specified by Env-Sw 1602.05, shall demonstrate the qualifications required pursuant to (b) above by operating and maintaining the facility in accordance with all applicable requirements of the solid waste rules and the facility permit.

(d) Operators of level II through level IV facilities, as specified by Env-Sw 1602.06 through Env-Sw 1602.08, shall demonstrate the qualifications required pursuant to (b) above by complying with Env-Sw 316 and Env-Sw 1600, and by operating and maintaining the facility in accordance with all applicable requirements of the solid waste rules and the facility permit.

Env-Sw 1005.07 Facility Staffing.

(a) A facility shall be staffed with persons qualified by reason of education, experience and performance history to operate the facility in accordance with all applicable requirements of the solid waste rules and the permit.

(b) For level II through level IV facilities, as specified by Env-Sw 1602.06 through Env-Sw 1602.08:

(1) All persons who operate the facility shall be certified by either issued certification or interim certification in accordance with Env-Sw 1600;

(2) For every one to 5 operators, there shall be at least one supervisor who shall be certified as a level III or level IV operator in accordance with Env-Sw 1600; and

(3) During the hours of operation, no less than 50 percent of the on-site personnel directly involved with the management of solid waste shall be operators certified by issued certification in accordance with Env-Sw 1600.

Env-Sw 1005.08 Financial Assurance.

(a) The permittee shall be responsible for the cost of facility closure, including all post-closure obligations.

(b) Prior to commencing operation of a facility, the permittee shall assure that adequate funds, in an amount no less than the amount calculated pursuant to Env-Sw 1403.02, are readily available to cover the cost of facility closure.

(c) In order to meet the obligation specified by (b) above, the permittee shall provide a formal financial assurance plan when required pursuant to Env-Sw 1400.

Env-Sw 1005.09 Incident Reporting.

(a) The permittee shall report to the department all incidents or situations at the facility which involve an imminent and substantial risk to human health, safety or the environment or which constitute a violation of the solid waste rules or the facility permit.

(b) Reports pursuant to (a) above shall be verbally made to the department by the permittee as soon as practicable.

(c) The permittee shall submit a written report pursuant to (a) above within 5 working days of the time the permittee becomes aware of the incident or situation and include the following information:

(1) Facility name, location by street and municipality, and permit number;

(2) Permittee name, mailing address and telephone number;

(3) Identification of all persons involved in the incident or situation, including name, title

and affiliation;

(4) A description of the incident or situation, including:

- a. The date and time the incident or situation occurred;
- b. The quantity and types of wastes and material(s) involved in the incident or situation and in the clean-up activities;
- c. Measures employed to contain releases caused by the incident or situation; and
- d. An assessment of actual or potential hazards to the environment, safety and human health related to the incident; and

(5) Measures the permittee has or intends to apply to reduce, eliminate, and prevent a recurrence of the incident or situation.

(d) The permittee shall report to the department, in writing, complaints made by abutters or other third parties which involve operating conditions or practices having the potential to adversely effect human health, safety or the environment or which involve a recurring or persistent nuisance situation such as noise, litter, odor, dust or vectors.

(e) The written report pursuant to (d) above shall be made as soon as practicable and include the following information:

- (1) Facility name, location by street and municipality, and permit number;
- (2) Permittee name, mailing address and telephone number;
- (3) Name, mailing address and, if available, telephone number of the complainant;
- (4) The nature of the complaint, date(s) of receipt by the permittee, and a complete description of the circumstances or situation giving rise to the complaint;
- (5) A description of the permittee's response action(s); and
- (6) Such other information as required by (c) above if the circumstances or situation giving rise to the complaint require reporting under (c) above.

(f) The rules in (a) and (d) above shall not be construed to mean a report is required on each day that an incident persists if the likelihood of its persistence is disclosed to the department in the initial report and the permittee is taking action to remedy the problem.

Env-Sw 1005.10 Out-of-State Waste Recordkeeping.

(a) Upon receipt of out-of-state waste by a disposal facility, the permittee shall obtain the information specified in (b) below in the form of a written statement signed by the transporter certifying under penalty of unsworn falsification pursuant to RSA 641:3 that the information is true and correct to the best of the transporter's knowledge and belief.

(b) The information required pursuant to (a) above shall include:

- (1) The printed or typed name and mailing address of the person delivering the out-of-state

waste;

(2) The date of delivery;

(3) A declaration of the total number of tons of out-of-state waste being delivered to the facility; and

(4) The point of origin of the out-of-state waste contained in each load, identified by individual state, and number of tons from that state.

(c) The permittee shall maintain in a secure location the records required by (a) and (b) above, and provide a copy to the department pursuant to Env-Sw 2002.

PART Env-Sw 1006 UNIVERSAL CLOSURE REQUIREMENTS

Env-Sw 1006.01 Trigger Events for Closure. A facility shall implement closure as specified in Env-Sw 1006.02 when one or more of the following conditions exist:

(a) The facility's operating permit expires or is revoked pursuant to RSA 149-M:12, II, or the facility has no operating permit;

(b) The permittee abandons use of the facility or ceases facility operations, unless notice is provided pursuant to Env-Sw 1106.05;

(c) Facility development is abandoned prior to commencing facility operations, unless notice is provided pursuant to Env-Sw 1106.05;

(d) The facility sustains irreparable damage or otherwise cannot operate in accordance with its permit and the solid waste rules;

(e) Environmental conditions exist at the site causing a threat to human health or the environment and such conditions have not been or cannot be remediated;

(f) If the facility is a landfill, it reaches its approved design volume or its temporary permit is called pursuant to Env-Sw 307;

(g) The facility reaches the end of its life expectancy or can no longer meet performance standards; or

(h) The facility is issued an administrative or judicial order to close.

Env-Sw 1006.02 General Closure Requirements. A facility shall be closed in accordance with the following provisions:

(a) All waste deliveries to the facility shall be terminated;

(b) All waste not permitted to remain at the facility following closure, including processed recyclable materials and all surface debris and litter, shall be removed from the facility to an authorized facility;

(c) If the facility is a landfill, all waste permitted to remain at the facility shall be contained and covered as necessary to protect the environment, public health and safety, and to achieve and maintain compliance with all universal facility performance requirements in Env-Sw 1002;

(d) Waste management equipment shall be removed or decommissioned, except for equipment needed to meet post-closure monitoring and maintenance obligations, if any;

(e) If the facility is not a land disposal facility, the facility site shall be cleaned to its original condition of cleanliness;

(f) If it is impracticable to return the facility site to its original condition of cleanliness pursuant to (e) above, whether because the character of the surrounding land use has changed, the original condition was in violation of state or federal environmental or public health laws, rules or regulations, or for any other reason, the permittee shall clean the facility site so as to render it suitable for an alternate use consistent with local land use and zoning regulations or plans; and

(g) Post-closure monitoring and maintenance shall be undertaken as required to assure the facility is closed in a manner to not adversely effect the environment, public health or safety.

CHAPTER Env-Sw 1100 ADDITIONAL FACILITY REQUIREMENTS

Statutory Authority: RSA 149-M:7

PART Env-Sw 1101 PURPOSE AND APPLICABILITY

Env-Sw 1101.01 Purpose. The purpose of the rules in this chapter is to ensure that the facilities identified in Env-Sw 1101.02(a), shall be located, designed, operated and closed in a manner that does not endanger public health or adversely affect the environment and which minimizes the potential for accidents that could lead to personal injury or property damage.

Env-Sw 1101.02 Applicability.

(a) Subject to (b) below, the rules in this chapter shall apply to all facilities having an active life longer than 90 days, except:

- (1) Permit-exempt facilities;
- (2) Research and development permit facilities as provided by Env-Sw 312.02(b); and
- (3) Emergency permit facilities as provided by Env-Sw 313.02(b).

(b) A requirement in this chapter specifying the use of a particular material or procedure shall not apply if an alternative is approved by the department as a condition of the permit based on a demonstration by the applicant or permittee presented in a permit application, application for permit modification or compliance report, as applicable, that:

- (1) The alternative material or procedure is functionally equivalent or superior in its protection of public health and the environment to the material or procedure specified by rule; and
- (2) The alternative is not prohibited by any other state rules or federal regulations applicable to the facility.

(c) The requirements in this chapter shall apply as the complement of the requirements in Env-Sw 1000 for all facilities, Env-Sw 1200 for permit-by-notification facilities, Env-Sw 400 through Env-Sw 800 as applicable based on the functional classification of the facility, and Env-Sw 900 as applicable

based on the type of waste managed by the facility.

PART Env-Sw 1102 ADDITIONAL SITING REQUIREMENTS

Env-Sw 1102.01 General Siting Requirements. The location of a facility shall be compatible with meeting all design, construction, operating and closure requirements specified for the facility in the solid waste rules, including requirements noted in Env-Sw 1101.02(c), as applicable:

Env-Sw 1102.02 Co-existence with Other Activities. The property on which the facility locates shall not also be the site of any activity not specifically authorized in the facility permit, either because it is an activity not regulated by the solid waste rules such as the collection of used oil for recycling or the operation of a non-waste related business, or because it is a permit-exempt activity such as the operation of a burn pile pursuant to Env-Sw 508.05, unless:

(a) The activity shall have no adverse affect on operating the permitted facility in compliance with the solid waste rules and the permit; and

(b) When required by Env-Sw 1105.07(d), notice of the activity shall be provided to the department as specified in Env-Sw 1105.07(e) and (f).

PART Env-Sw 1103 ADDITIONAL DESIGN REQUIREMENTS

Env-Sw 1103.01 General Design Requirements.

(a) A facility shall employ best practicable technology(s) and sound engineering practices in meeting the applicable design requirements specified in the solid waste rules.

(b) Where options exist relative to design concepts, preference shall be given to the option which provides:

(1) The least complex alternative(s) for facility construction, operation and maintenance; and

(2) Exhibits the required performance standard(s).

(c) The design of a facility shall be compatible and facilitate compliance with the applicable facility operating and closure requirements specified in the solid waste rules.

Env-Sw 1103.02 Equipment Installation. The installation and use of manufactured equipment at a facility shall conform to the manufacturer's specifications and recommendations, unless the permittee provides a written statement by a qualified professional engineer certifying that the non-conforming installation and use shall not adversely affect the environment, public health or safety.

Env-Sw 1103.03 Access Control.

(a) The perimeter of a facility site shall be fenced in a manner as to restrict unauthorized access to the facility, except no fence shall be required if natural site features restrict access to the site, or all waste handling, storage and disposal areas at the facility are wholly contained within locked structures or devices when the facility operator is not present.

(b) Weather-resistant signs, which state that access is restricted, shall be posted around the perimeter of a facility site wherever fencing is not required by (a) above.

(c) The lawful access points to the facility shall be secured by locked gates or the equivalent during times when the facility operator is not be present.

Env-Sw 1103.04 Surrounding Properties. The design of a facility shall incorporate features to minimize adverse impacts, if any, to surrounding properties, such as the use of stockade fencing where appropriate to shield waste storage and handling areas from view and to control the off-site transport of dust and windblown litter, and the use of landscaping berms or other vegetation for similar purposes.

Env-Sw 1103.05 Design Plans and Specifications, Content and Format. Facility plans and specifications, including preliminary and final plans submitted with an application pursuant to Env-Sw 311 through Env-Sw 315 and record drawings submitted pursuant to Env-Sw 1104.07, shall conform to the following requirements:

- (a) Plans and specifications shall bear the date of preparation and, for a facility already permitted, the facility permit number;
- (b) Plans and specifications shall be clearly readable;
- (c) Plans and specifications shall be prepared in accordance with standard engineering practices, including dimensions, labels, details and other graphic elements;
- (d) Plans and specifications shall be stamped by a qualified professional engineer as required by RSA 310-A;
- (e) Except as provided by (f) below, plans shall:
 - (1) Be prepared at a scale of no less than one inch equals 50 feet;
 - (2) Be presented on paper no larger than 24 inches by 36 inches;
 - (3) Show profiles drawn to standard scales with a ratio of 10 horizontal to 1 vertical (10:1), such as 40:4 and 50:5;
 - (4) Show elevations of the surface to the nearest 0.1 foot;
 - (5) Show elevations of the piping, sewer, and manhole inverts to the nearest 0.01 foot;
 - (6) Report all elevations in feet and tenths and reference all elevations to a standard datum, which shall be indicated on the plans, based on mean sea level; and
 - (7) Show contours at a minimum interval of 2 feet on all plan views.
- (f) Alternatives to (e) above shall be accepted if, prior to submitting the plans, the applicant requests approval of the alternative(s) and shows in the request that, based on the size of the land area being shown, the size of the detail being shown or the margin of error acceptable, the information to be presented on the plans will be as clear and understandable prepared according to the alternative(s) as it would be prepared according to (e) above.
- (g) Plans and specifications submitted for construction approval shall include the intended methods for sequencing facility construction, consistent with:
 - (1) The seasonal restrictions specified in Env-Sw 1104.04;

- (2) The construction schedule required by Env-Sw 1104.02; and
- (3) For landfills constructed in phases over time, the requirements in Env-Sw 805.11(d).

(h) Plans and specifications shall be submitted with all calculations and design related documentation required to support and verify the adequacy of the proposed design and construction.

PART Env-Sw 1104 ADDITIONAL CONSTRUCTION REQUIREMENTS

Env-Sw 1104.01 Prerequisites for Construction.

(a) Prior to commencing construction of a facility, or any phase or portion thereof, the permittee shall:

- (1) Obtain approval for the applicable design plans and specifications, as follows:
 - a. For a permit-by-notification facility or other facility which is not subject to the provisions in Env-Sw 305.05(b) and (c), the facility plans submitted in the application shall be deemed approved for construction upon issuance of the permit; and
 - b. For facilities with a standard permit, emergency permit or research and development permit which is subject to the provisions in Env-Sw 305.05(b) and (c), plans and specifications for construction shall be approved pursuant to the provisions for a type II permit modification in Env-Sw 315;
- (2) If the construction project is for new landfill capacity, obtain approval for preliminary plans to close the facility as though the phase being constructed will be the terminal phase, as follows:
 - a. By submitting such plans with the permit application and obtaining approval thereof by issuance of the permit; or
 - b. By submission of such plans with the application for permit modification required pursuant to (1)b. above;
- (3) If required pursuant to Env-Sw 1104.04(f), file a site safety and contingency work plan and the related certification with the department;
- (4) Obtain legal rights of access or property ownership as required by Env-Sw 1003.03 and, if applicable, Env-Sw 804.06 and Env-Sw 807.03(d);
- (5) Comply with all other pre-construction requirements specified in the permit; and
- (6) After complying with (1) through (5) above, file a notice of intent to construct as specified in Env-Sw 1104.02.

(b) For a landfill or other facility constructed in phases over time, including construction of a landfill closure system, the permittee shall comply with the requirements specified in (a) above for each new phase of construction.

Env-Sw 1104.02 Notice of Intent to Construct.

- (a) A notice of intent to construct shall include:

- (1) Facility identification;
 - (2) A construction schedule that provides the following information:
 - a. The intended starting date of construction; and
 - b. The discrete construction activities to be performed, including:
 1. The order in which they will be performed;
 2. The projected starting date for each; and
 3. The estimated length of time required to complete each activity;
 - (3) The name, address and professional qualifications of the construction contractor(s);
 - (4) For construction of a facility which is subject to Env-Sw 1104.06, the name(s), address(es), telephone number(s) and professional qualifications of the resident engineer and project engineer as required by Env-Sw 1104.06;
 - (5) For construction of a facility which is not subject to Env-Sw 1104.06, the name(s), address(es) and telephone number(s) of the person(s) in responsible charge of construction activities;
 - (6) Identification of the plans and specifications approved for construction, by attaching a copy of the approval or providing reference to the terms and conditions of the permit wherein the approval is granted; and
 - (7) Affirmation that all other prerequisite approvals and actions, as specified in Env-Sw 1104.01(a), have been satisfied for the proposed construction activity.
- (b) The notice of intent to construct shall be signed by the permittee and property owner.
- (c) The notice of intent to construct shall be:
- (1) Filed with the department in duplicate; and
 - (2) Copied to the host municipality and district.

Env-Sw 1104.03 Approval to Commence Construction.

- (a) Except as provided in (e) below, upon receipt of a complete notice of intent to construct, a copy of the notice bearing the department's dated receipt stamp shall be returned to the permittee.
- (b) The permittee shall:
 - (1) Attach the returned copy of the notice to a copy of the permit, or section of the permit, which granted approval of the applicable plans and specifications; and
 - (2) Prominently display each at the construction site.
- (c) The returned copy of the notice shall constitute approval to commence construction as

specified in the notice and in accordance with the approved plans and specifications.

(d) Approval to commence construction shall:

(1) Expire one year from the date of issuance if construction is not commenced; and

(2) Be subject to terms and conditions as necessary to assure that the facility is constructed in accordance with the approved plans and specifications, all applicable rules, regulations and the terms and conditions of the permit.

(e) If the permittee has not satisfied all prerequisites for construction as specified in Env-Sw 1104.01, the notice of intent to construct shall not be returned by the department upon receipt and approval to commence construction shall be thereby withheld while the permittee is notified and corrects the deficiency.

(f) The department shall first notify the permittee by telephone of a deficiency pursuant to (e) above and follow it in writing within 10 working days, if the permittee has not corrected the deficiency in the meantime.

(g) Suspension or revocation of a construction approval shall be subject to the provisions in Env-Sw 306.

Env-Sw 1104.04 General Construction Requirements.

(a) Except for the field changes allowed by Env-Sw 1104.05, a facility shall be constructed in strict accordance with the approved plans and specifications.

(b) Construction of a facility shall occur in accordance with standard engineering and construction practices.

(c) The permittee shall implement quality assurance controls during construction.

(d) Construction of a facility shall not take place during climatic conditions having the potential to adversely affect:

(1) The quality of the work being performed; or

(2) The performance of the facility or any component thereof when operated and closed.

(e) The permittee shall assure that construction practices shall comply with all applicable labor safety standards including but not limited to the following:

(1) Regulations administered by the Occupational Safety and Health Administration (OSHA); and

(2) Statutes and rules implemented by the New Hampshire department of labor.

(f) Construction involving the removal or relocation of waste shall occur in accordance with a site safety and contingency work plan as follows:

(1) The plan shall satisfy all applicable federal, state and local requirements for protection of human health and the environment; and

(2) Except as provided by (3) below, the plan shall be submitted for informational purposes in accordance with Env-Sw 1104.01 including a signed statement by a qualified professional attesting to the adequacy of the plan; and

(3) Submittal of the site safety and contingency work plan shall not be required for incidental waste removal such as occurs during gas vent installation.

(g) Prior to causing any part of any waste containment, conveyance, processing or treatment system at a facility to become inaccessible for inspection and repair, the system shall be inspected and tested to assure that it meets all applicable standards and specifications.

(h) Following completion of inspection and testing pursuant to (g) above, a written inspection report shall be prepared, including:

(1) The method of inspection(s);

(2) The applicable test protocol and standards; and

(3) For a facility which is subject to Env-Sw 1104.06, the professional stamp and signature of the project engineer to certify that, based upon inspection and testing conducted pursuant to the approved design plans and specifications and all additional information known to the project engineer, the applicable facility system has been constructed in accordance with the approved plans and specifications.

Env-Sw 1104.05 Design Changes During Construction.

(a) During construction of a facility not subject to Env-Sw 1104.06, the permittee may implement a change to the approved plans and specifications, without explicit department approval, provided that:

(1) The change(s) shall not violate any siting, design, operating or closure requirement applicable to the facility; and

(2) The change(s) shall be identified and reported to the department on the record drawings filed pursuant to Env-Sw 1104.07.

(b) During construction of a facility which is subject to Env-Sw 1104.06, the permittee may implement a change to the approved plans and specifications, without explicit department approval, provided that the project engineer:

(1) Determines that all conditions specified in (c) below shall be met;

(2) Fully documents the change in the bi-weekly construction report submitted to the department pursuant to Env-Sw 1104.07, or earlier whenever possible; and

(3) Establishes a record of the change(s) so as to allow the change to be identified and reported to the department on the record drawings filed pursuant to Env-Sw 1104.07.

(c) A design change shall not be implemented pursuant to (b) above unless:

(1) The change shall not be relevant to assessing facility siting criteria and maintaining compliance therewith;

- (2) The design change shall be functionally equivalent or superior to the design feature being changed;
- (3) Other than the fact that the change is not explicitly part of the approved plans and specifications, the change shall comply with all applicable rules and regulations and all terms and conditions of the permit;
- (4) The change shall not require any change to the facility's approved operating, closure and financial assurance plans; and
- (5) The change shall not involve the use of waste-derived products not certified for distribution and use pursuant to Env-Sw 1500.

(d) For a facility which is subject to Env-Sw 1104.06, a change to the approved plans or specifications which does not meet the conditions specified in (c) above shall be authorized only by issuance of a permit modification pursuant to the provisions of Env-Sw 315.

Env-Sw 1104.06 Project Engineer and Resident Engineer. A standard permit facility, emergency permit facility not exempt pursuant to Env-Sw 313.02(b) and research and development permit facility not exempt pursuant to Env-Sw 312.02(b), shall comply with the following requirements:

- (a) The permittee shall designate a project engineer to:
 - (1) Administer the technical aspects of the construction contract; and
 - (2) Provide technical coordination of the design, permitting, and construction issues;
- (b) The project engineer shall:
 - (1) Be a qualified professional engineer;
 - (2) Administer all construction contracts;
 - (3) Approve all construction contract change orders;
 - (4) Monitor all inspections and testing;
 - (5) Provide statements and reports as required by Env-Sw 1104.05, Env-Sw 1104, and Env-Sw 1105.02;
 - (6) Maintain facility construction records during the construction period;
 - (7) Monitor all construction activities to ensure compliance with the permit, specifically including the approved design plans and specifications;
 - (8) Monitor the scheduling of all construction activities;
 - (9) Generate the written status report required by Env-Sw 1104.07 at the end of each 2 week period; and
 - (10) Assure compliance with a quality assurance/quality control plan pursuant to Env-Sw 805.16 if applicable;

(c) If the project engineer is not present at the site when all construction activities at a facility are performed, the permittee shall assure that a qualified resident engineer is present to monitor all construction activities;

(d) The resident engineer required by (c) above shall:

- (1) Be a qualified professional engineer; or
- (2) Work under the supervision of a qualified professional engineer; and
- (3) Be experienced in and knowledgeable about the work he/she shall be overseeing; and
- (4) Report directly to the project engineer; and

(e) The requirements of (a) through (d) above shall not apply if:

- (1) The permittee has demonstrated in the permit application, or the application for a type II permit modification for construction plan approval, that the nature and scope of the proposed construction activity(s) shall not require professional engineering oversight to assure protection of the environment, public health and safety and to meet other requirements of law; and
- (2) The exclusion is approved as a condition of the permit or permit modification.

Env-Sw 1104.07 Construction Reporting and Recordkeeping Requirements.

(a) The permittee shall submit in accordance with Env-Sw 303, no later than the Wednesday following the end of each 2 week work period during construction of a facility, a written status report of all construction activities in progress.

(b) The status report submitted pursuant to (a) above shall include the following information:

- (1) Facility identification, including name, location by street and municipality, and permit number;
- (2) Description of work completed to date;
- (3) An amended construction schedule if the anticipated schedule deviates from the last construction schedule of record;
- (4) Design changes implemented pursuant to Env-Sw 1104.05, if any; and
- (5) Damage and repair information pursuant to (e) below, if any.

(c) Upon completion of each major element of construction involving a waste containment, conveyance, processing or treatment system subject to inspection and testing pursuant to Env-Sw 1104.04(g), the permittee shall submit a copy of the inspection report and engineer's certification prepared in accordance with Env-Sw 1104.04(h).

(d) The permittee shall maintain, with the facility operating records pursuant to Env-Sw 1105.06, all construction related records required to document permit compliance and to prepare and validate the record drawings.

(e) If a facility sustains damage during construction which has the potential to adversely affect the integrity of facility operations, life expectancy or performance, the permittee shall:

- (1) Inform the department, as soon as practicable under the circumstances; and
 - (2) Provide, with the related biweekly construction progress report, a written damage and repair report detailing the incident.
- (f) No later than 90 days following completion of construction, the permittee shall:
- (1) Submit in accordance with Env-Sw 303 the applicable facility record drawings, prepared in accordance with Env-Sw 1103.05 and explicitly identifying all features different than the features provided in the approved plans and specifications; and
 - (2) Provide written certification that the facility, as-built, meets or exceeds all applicable requirements of the permit including the approved plans and specifications.

Env-Sw 1104.08 Interaction with Department During Construction.

(a) During construction, the permittee shall provide department personnel with access to the construction site for monitoring and inspection purposes, pursuant to Env-Sw 2000.

(b) During construction, the permittee shall provide department personnel with access to a construction trailer work station, or other appropriate on-site work station, for use in reviewing plans, specifications and other construction-related records.

(c) During construction, the permittee shall allow department personnel to attend scheduled pre-construction meetings and other construction-related meetings with the project engineer or the contractor, or both.

(d) The permittee shall address all issues of concern that the department identifies in writing as a consequence of inspecting or monitoring facility construction activities.

(e) If an issue of concern pursuant to (d) above involves a determination by the department that facility construction might not be proceeding in accordance with the approved design plans and specifications, the permittee shall either:

- (1) Voluntarily halt construction until the issue is resolved; or
- (2) Proceed with construction on the basis that the department shall only grant approval to operate the facility after the issue of concern is resolved or, if the issue of concern involves the construction of a facility closure system, on the basis that the department shall only release the permittee from financial assurance obligations after the issue of concern is resolved.

(f) Revocation or suspension of the construction approval shall be subject to the provisions in Env-Sw 306.

PART Env-Sw 1105 ADDITIONAL OPERATING REQUIREMENTS

Env-Sw 1105.01 Prerequisites for Operations.

(a) Prior to commencing operation of a facility, or any phase or portion thereof, the permittee

shall:

- (1) Obtain operating plan approval, as follows:
 - a. For a permit-by-notification facility or other facility which is not subject to the provisions of Env-Sw 305.05(b) and (c), the operating plan shall be approved through issuance of the permit and, for a permit-by-notification facility, based solely on representations by the permittee in the application pursuant to Env-Sw 1202.02(a)(2); and
 - b. For facilities with a standard permit, emergency permit or research and development permit issued subject to the provisions in Env-Sw 305.05(b) and (c), the operating plan shall be approved pursuant to the provisions for a type II permit modification in Env-Sw 315;
 - (2) Assure financial responsibility for facility closure, as follows:
 - a. For a permit-by-notification facility or other facility not subject to Env-Sw 1400, financial responsibility shall be assured by having certified responsibility in the permit application pursuant to Env-Sw 303.04; and
 - b. For facilities with a standard permit, emergency permit or research and development permit issued subject to the provisions of Env-Sw 305.05(b) and (c), financial responsibility shall be assured in accordance with the provisions of a final financial assurance plan approved pursuant to the provisions for a type II permit modification in Env-Sw 315 and by submitting all original signed financial assurance documents required to verify the plan has been implemented and is in effect;
 - (3) Complete facility construction in accordance with all applicable construction requirements and submit all construction status reports, including construction inspection reports, as specified in Env-Sw 1104.07;
 - (4) Comply with all other pre-operation requirements specified in the permit; and
 - (5) After complying with (1) through (4) above, file a notice of intent to operate as specified in Env-Sw 1105.02.
- (b) For a landfill or other facility operated on a phase by phase basis over time, the permittee shall comply with the requirements specified in (a) above each time operation of a new phase commences.

Env-Sw 1105.02 Notice of Intent to Operate.

- (a) A notice of intent to operate shall include the following:
 - (1) Facility identification;
 - (2) Date permittee intends to commence operations;
 - (3) Facility operating hours;
 - (4) A statement, signed and stamped by the project engineer for a facility subject to Env-Sw 1104.06 or signed by the permittee for a facility not subject to Env-Sw 1104.06, that to the best of his/her knowledge, the facility has been constructed in accordance with the permit,

the solid waste rules and the approved plans and specifications and is fit for operation in accordance therewith;

(5) For facilities with a standard permit, emergency permit or research and development permit issued subject to the provisions of Env-Sw 305.05(b) and (c), identification of the approved operating plans and approved financial assurance plan;

(6) For a permit-by-notification facility, reaffirmation of the existence of the operating plan pursuant to the provisions of Env-Sw 1202.02(a)(2) and reaffirmation of financial responsibility for closure pursuant to Env-Sw 1005.08(b);

(7) The name, certificate number and telephone number of all certified facility operators, in conformance with the requirements of Env-Sw 1005.06 and Env-Sw 1005.07;

(8) The name and telephone number of the facility manager or other individual designated by the permittee as being the individual the department should contact regarding operation of the facility; and

(9) Affirmation that all other prerequisite approvals and actions, as specified in Env-Sw 1105.01(a), have been satisfied for the proposed operations.

(b) The notice of intent to operate shall be signed by the permittee and property owner.

(c) The notice of intent to operate shall be:

(1) Filed with the department in duplicate; and

(2) Copied to the host municipality and district.

Env-Sw 1105.03 Operating Approval.

(a) Except as provided in (e) below, upon receipt of a complete notice of intent to operate, a copy of the notice bearing the department's dated receipt stamp shall be returned to the permittee.

(b) The permittee shall attach the returned copy of the notice to the permit.

(c) The returned copy of the notice shall constitute approval to commence operations as specified in the notice and in accordance with the approved operating plan.

(d) Approval to commence operations shall be subject to terms and conditions as necessary to assure that the facility operates in accordance with the approved plans and specifications, all applicable rules and regulations, and the terms and conditions of the permit.

(e) If the permittee has not satisfied all prerequisites for operations, as specified in Env-Sw 1105.01, the notice of intent to construct shall not be returned by the department upon receipt and approval to commence operations shall be thereby withheld while permittee is notified and corrects the deficiency.

(f) The department shall first notify the permittee by telephone of a deficiency pursuant to (e) above and follow it in writing within 10 working days if the permittee has not corrected the deficiency in the meantime.

(g) Suspension or revocation of an operating approval shall be subject to the provisions in Env-

Sw 306.

Env-Sw 1105.04 Basic Operating Requirements.

(a) A facility shall operate in compliance with RSA 149-M, all requirements in the solid waste rules, including those noted in Env-Sw 1101.02(c) as applicable and this part, and the terms and conditions of the permit.

(b) As a condition of the permit, the facility shall operate in accordance with the last approved operating plan record.

Env-Sw 1105.05 Signs and Postings.

(a) Legible signs shall be posted at or near each public entrance to a facility.

(b) The signs required pursuant to (a) above shall include the following:

- (1) The facility name and permit number;
- (2) The name, address and telephone number of the permittee;
- (3) The days and hours that the facility will be open to receive waste;
- (4) The type of wastes accepted; and
- (5) A statement that unlawful dumping will be subject to fine and prosecution.

(c) A copy of the permit, including a complete copy of the last approved operating plan of record and a complete copy of the last approved closure plan of record, shall be maintained at a location accessible to facility operators.

(d) A copy of the authorization page of the permit bearing the permit number and the authorization signature, shall be prominently displayed at the facility.

(e) Current operator certification certificates, obtained pursuant to the provisions of Env-Sw 1600, shall be prominently displayed at the facility.

Env-Sw 1105.06 Facility Operating Records.

(a) The permittee shall compile and maintain records at the facility which document all phases of facility operations, including the following information:

- (1) Identification of the facility by name, location by street and municipality and permit number;
- (2) Identification of the permittee by name, address and telephone number;
- (3) Identification of all facility operator(s) by name, address, certificate number, and date(s) of employment at the facility;
- (4) Quantity, type, source and destination of all waste received by the facility;
- (5) Quantity, type and destination of all waste generated by the facility, if any, including

bypass waste and residual waste;

- (6) Quantity, type and destination of all certified waste-derived products produced by the facility, if any;
- (7) Record of inspections, maintenance, and repairs;
- (8) Record of accidents, violations, remedial and emergency event response actions;
- (9) Record of complaints received and related response actions;
- (10) Data from all environmental monitoring performed at or for the facility, whether required by the solid waste rules or the permit or undertaken voluntarily;
- (11) Documentation of contact with the waste management district(s) served by the facility as required by Env-Sw 1105.12;
- (12) If the facility is subject to 40 CFR 258, such information and documentation that the permittee shall be required therein to place into the facility operating records;
- (13) Other recordkeeping information and documentation required by Env-Sw 400 through Env-Sw 800 as applicable based on the functional classification of the facility; and
- (14) Other information and documentation as required by the terms and conditions of the permit.

(b) The operating records identified in (a) above shall be maintained at the facility at all times during the active life of the facility, unless approval is granted pursuant to the provisions for a type V permit modification in Env-Sw 315 or a waiver to relocate or destroy the record.

(c) Operating records shall be made available for department inspection and copies provided to the department pursuant to Env-Sw 2000.

(d) Following closure of the facility, the operating records shall be maintained at a location approved by the department in the closure plan, unless destruction of the records is approved pursuant to the provisions for a type V permit modification in Env-Sw 315.

Env-Sw 1105.07 Reporting Requirements.

(a) The permittee shall notify the department in writing within 30 calendar days of any change in the facility address, telephone number, key certified operators and contact person(s).

(b) The permittee shall file an annual facility report by March 31 for the prior calendar year for each year that the facility operates and for each year of the facility's post-closure monitoring and maintenance period, as follows:

- (1) For a facility that received waste during the reporting year, the report shall contain the information required by Env-Sw 1105.13, except as provided by (3) below.
- (2) For a facility that did not receive waste during the reporting year and is either undergoing closure or has completed closure excluding completion of all post-closure monitoring and maintenance obligations, the annual report shall contain the information required by Env-Sw 1105.14, except as provided by (3) below.

(3) Except for facility identification information, the permittee shall not be required to submit in the annual report any information specified in Env-Sw 1105.13 or Env-Sw 1105.14 if:

a. The information was already reported in writing to the department during the calendar reporting year and the permittee provides a written statement which identifies:

1. The nature of the information already submitted;
2. The date the information was submitted or the date on the document containing the information;
3. The title of the document containing the information, if applicable; and
4. The name of the person who submitted the information; or

b. The information is unchanged from the previous calendar reporting year and the permittee marks the item "unchanged from last annual report" and cites the date of the last annual report that contained the information.

(c) The permittee shall report all changes in operational and ownership control in accordance with the provisions for a type III or type IV permit modification, as applicable, pursuant to Env-Sw 315.

(d) Pursuant to (e) below and in accordance with Env-Sw 303, the permittee shall notify the department in writing prior to conducting the following activities at the facility not specifically authorized in the permit:

- (1) Any activity not regulated by the solid waste rules but involving a waste listed in Env-Sw 101.03; and
- (2) Any activity that is permit-exempt in Env-Sw 302.03.

(e) For activities commencing at the facility site after permit issuance, written notice pursuant to (d) above shall include the following, compiled in the order shown:

- (1) Facility name, location by street and municipality, and permit number;
- (2) A description of the subject activity;
- (3) A site plan showing the location of the subject activity in relation to the permitted facility activities;
- (4) The date the subject activity will commence and the anticipated duration of the activity;
- (5) Identification and status of other local, state and federal permits and approvals required to implement the subject activity; and
- (6) Certification, signed by the permittee, that the activity shall not adversely affect the permitted construction, operation and closure of the facility as required by Env-Sw 1102.02.

(f) For activities existing at the facility site prior to permit issuance, written notice pursuant to (d) above shall be provided in the permit application by showing the activity on the existing features plan

and describing the activity in the siting assessment.

Env-Sw 1105.08 Hours of Operation.

(a) Except as provided by (b) below, all active and routine facility operations, including waste disposal, facility inspections, maintenance, repairs and monitoring, shall occur between 6:00 a.m. and 6:00 p.m. under normal non-emergency circumstances.

(b) Regular operating hours outside of the normal 6:00 a.m. to 6:00 p.m. window specified by (a) above shall be allowed only if:

(1) Approved by the department in the terms and conditions of the permit based on information provided in an application which demonstrates:

- a. The facility will not successfully operate within the normal window; and
- b. The alternative hours will not result in problems relating to safety, access control or nuisances; or

(2) The facility is a limited private facility and receives no waste from off-site locations.

Env-Sw 1105.09 Receipt and Management of Waste.

(a) Only authorized wastes, as specified in the permit, shall be accepted by a facility.

(b) Incoming wastes shall be inspected and, if necessary, sampled and analyzed to assure the facility accepts authorized waste only.

(c) Unauthorized waste shall be rejected by the facility.

(d) The permittee shall advise the transporter of a rejected waste as to potentially available alternative facilities which the permittee believes or knows to be authorized to receive the type of waste being rejected.

(e) The quantity of incoming waste, outgoing waste and certified waste-derived products produced by the facility shall be measured and recorded in the facility operating records.

Env-Sw 1105.10 Management of Residual Waste.

(a) Facility operations shall include provisions to properly manage residual waste.

(b) A facility shall obtain and maintain access to at least 2 authorized locations where adequate capacity exists to handle the type and quantity of all residual waste, excluding landfill decomposition gas, that the facility shall regularly generate during its operating and post-closure periods.

(c) A residual waste shall not be distributed for use unless certified for distribution and use in accordance with Env-Sw 1500.

Env-Sw 1105.11 Operating Plan Content and Format.

(a) A facility operating plan shall provide sufficient detail to allow the certified operator and other trained facility personnel to operate the facility in compliance with RSA 149-M, the permit and the solid waste rules without further explanation or guidance.

(b) The operating plan shall be prepared as a loose leaf document to facilitate amendment as specified in Env-Sw 315.

(c) Each page of the operating plan shall bear the date of preparation or last revision, as applicable, and the facility name, location and permit number, if a permit is issued for the facility at the time that the operating plan or a modification thereto is prepared.

(d) The content and organizational format of the operating plan shall be as follows:

(1) Section 1, titled "facility identification," shall identify:

- a. The facility name, mailing address, location by street address and municipality, and permit number;
- b. The type of the facility;
- c. The capacity of the facility;
- d. The facility service type;
- e. The facility service area; and
- f. The name, address and telephone number of the permittee, property owner, and operator;

(2) Section 2, titled "authorized and prohibited waste," shall provide a list of:

- a. The specific waste types the facility which shall be authorized to receive; and
- b. The specific waste types the facility shall not be authorized to receive;

(3) Section 3, titled "routine operations plan," shall provide a detailed description of how the daily operations of the facility will be conducted to assure that the facility will be operated in accordance with the solid waste rules, including a description of:

- a. Hours of operations;
- b. Facility access control and on-site traffic patterns;
- c. Waste acceptance and rejection procedures, including unloading, sorting and inspection procedures;
- d. The procedure by which the quantity and source(s) of all wastes received by the facility shall be determined and recorded;
- e. The procedure by which the quantity and destination of all outgoing waste and certified waste-derived products shall be determined and recorded;
- f. The storage time and capacity limits for all wastes received by the facility and the procedures by which the limits shall be monitored to assure compliance therewith;
- g. All collection, storage, transfer, processing, treatment and disposal methods and

procedures employed by the facility for managing waste following receipt; and

h. For facilities that process or treat waste, the methods or procedures for managing bypass waste and the quality assurance/quality control procedures relating to the management of processed or treated waste;

(4) Section 4, titled “residual waste management plan,” shall provide a detailed description of how all residual waste, if any, shall be managed by the facility, including the information specified in a. through d. below, or if the facility will not generate any residual waste, a statement so indicating:-

a. The type and estimated quantity of all residual wastes to be generated by the facility;

b. How such wastes shall be managed at the facility prior to removal;

c. Information to demonstrate how the provisions of Env-Sw 1105.10 shall be met; and

d. Quality assurance/quality control provisions, to assure that the wastes to be transferred shall be acceptable to the receiving facility;

(5) Section 5, titled “facility maintenance, inspection and monitoring plan,” shall identify all routine maintenance, inspection and monitoring requirements necessary to assure the integrity of facility operations, including a description of the measures to be undertaken to monitor and inhibit the following:

a. Spontaneous combustion;

b. Other fire hazards;

c. Vector production;

d. Generation of methane, hazardous, or explosive gases;

e. Odors;

f. Dust;

g. Windblown litter;

h. Leachate; and

i. Spills;

(6) Section 6, titled “contingency plan,” shall:

a. Identify all reasonably foreseeable emergencies, such as fire, explosion, operator injury, and the like, based on the type of facility and wastes being handled;

b. Describe the appropriate response of facility personnel for each emergency identified in a. above; and

c. Include identification of and telephone numbers for all local and state officials to be notified in the event of an emergency;

(7) Section 7, titled “employee training program,” shall provide a description of employee training program(s); and

(8) Section 8, titled “recordkeeping and reporting,” shall provide a description of record keeping procedures as necessary to comply with Env-Sw 1105.06 and Env-Sw 1105.07.

Env-Sw 1105.12 Interactions with Districts.

(a) During the active life of a facility, the permittee shall annually communicate with the host solid waste management district to assure that:

(1) All operating requirements established for the facility pursuant to the provisions of RSA 149-M:11, XI pertaining to the requirements of RSA 149-M:11, III(c) and RSA 149-M:12, I(b) are being met by the facility; and

(2) Facility operations meet other relevant planning needs and requirements identified or established by the district, to the extent allowed by the permit.

(b) The communication required by (a) above may be provided by sending to the district chairperson a copy of the facility’s annual report with a cover letter identifying the purpose of the communication and soliciting a response by district officials concerning the requirements of (a) above.

Env-Sw 1105.13 Annual Report for Active Facilities, Content. For facilities that received waste during the reporting year, the annual report required by Env-Sw 1105.07(b) shall include the following:

(a) Facility name, location by street and municipality, and permit number;

(b) Name, address and telephone number of the permittee;

(c) Name, address, certificate number and telephone number of all facility operators;

(d) Status of the facility, including whether active or inactive and the estimated remaining life and capacity of the facility;

(e) Quantity in tons, type and source of all waste received by the facility, with out-of-state tonnage figures separately listed and totaled;

(f) Destination of all wastes received by the facility;

(g) Quantity, type and destination of all waste generated by the facility, including bypass and residual waste;

(h) For processing and treatment facilities producing certified waste-derived products:

(1) The quantity, type and market destination of each waste-derived product produced and distributed by the facility; and

(2) Certification that all waste-derived products distributed by the facility for use met the applicable standards for distribution and use pursuant to Env-Sw 1500 or, if not true, a detailed explanation of the situation and actions taken by the permittee to remedy the

problem;

(i) For non-landfill facilities, the estimated quantity of waste stored at the facility, by type, as of the end of the calendar reporting year;

(j) A summary and assessment of environmental monitoring performed at the facility, whether required by the solid waste rules or the permit or undertaken voluntarily;

(k) Pursuant to the provisions of RSA 149-M:11, XI, a discussion of how facility operations satisfied the public benefit requirements specified in the permit, if any; and

(l) Other information, if any, identified as annual reporting information in:

(1) Env-Sw 400 through Env-Sw 800 specific to the type of facility, as applicable; and

(2) Env-Sw 900 specific to the type(s) of waste managed by the facility, as applicable.

Env-Sw 1105.14 Annual Report for Inactive Facilities, Content. For facilities not receiving waste during the reporting year and either undergoing closure or having completed closure except for post-closure monitoring and maintenance obligations, the annual report required by Env-Sw 1105.07 shall include the following:

(a) Facility name, location by street and municipality, and permit number;

(b) Name and address of the permittee;

(c) Name, address, certificate number and telephone number of all facility operators, if applicable;

(d) Name, address, affiliation and telephone number of the person or persons responsible for managing all post-closure activities at the facility;

(e) Facility status, including, as applicable:

(1) Date the facility discontinued receipt of waste;

(2) Commencement and completion dates for all construction activities at the facility related to the approved closure plan; and

(3) Anticipated or scheduled date for completing all required post-closure monitoring and maintenance activities; and

(f) A summary and assessment of all environmental monitoring performed at or for the facility, whether required by the solid waste rules or the permit or undertaken voluntarily, specifically including as applicable:

(1) Information identified as post-closure annual reporting information in Env-Sw 400 through Env-Sw 800 specific to the type of facility;

(2) Information identified as post-closure annual reporting information in Env-Sw 900 specific to the type(s) of waste that were managed by the facility;

(3) Information concerning emergency events or other unexpected or unusual events at the

facility relevant to assessing whether the facility is achieving post-closure performance expectations; and

(4) For a facility having post-closure obligations, an evaluation of the available environmental monitoring data and other information pertaining to facility conditions, including a statement by a qualified professional engineer identifying whether the facility is achieving post-closure performance expectations and whether adjustments to the approved post-closure monitoring and maintenance period or provisions are recommended in light of the performance evaluation.

PART Env-Sw 1106 ADDITIONAL CLOSURE REQUIREMENTS

Env-Sw 1106.01 Commencement of Closure Activities. Prior to commencing closure of a facility, the permittee shall file a notice of intent to close as described by Env-Sw 1106.02 and, for any closure activity involving construction, shall obtain construction approval pursuant to the provisions of Env-Sw 1104.

Env-Sw 1106.02 Notice of Intent to Close. The notice of intent to close shall include:

- (a) Facility identification;
- (b) Date the facility intends to stop receiving wastes;
- (c) A copy of the facility's approved closure plan or file reference thereto or, if there is no approved closure plan of record, 3 copies of a proposed closure plan prepared in accordance with Env-Sw 1106.04 and submitted with an application for a type I-B permit modification pursuant to Env-Sw 315;
- (d) If the provisions of the last approved closure plan of record are no longer applicable or no longer conform to the closure requirements of the solid waste rules, identification of such provisions and revisions in accordance with Env-Sw 315; and
- (e) The date the facility intends to commence closure activities.

Env-Sw 1106.03 Basic Facility Closure Requirements. A facility shall close in conformance with the solid waste rules and the provisions of an approved closure plan in conformance with Env-Sw 1106.04.

Env-Sw 1106.04 Closure Plan, Content and Format.

(a) A facility closure plan shall provide sufficient detail to allow a third party to implement and complete all required facility closure tasks in compliance with RSA 149-M, the permit and the solid waste rules without further explanation or guidance or as provided by (b) below.

(b) For a landfill closure plan prepared before the facility reaches final grades, the design plans and specifications for the capping system and related appurtenances shall be considered preliminary and need not provide final design detail sufficient to allow third party implementation without further explanation or guidance. However, any closure plan approved on the basis of preliminary plans shall include, in the list of closure tasks, provisions for preparing final design plans and specifications for the capping system and related appurtenances, as specified in Env-Sw 807.

(c) The closure plan shall be prepared as a loose leaf document to facilitate amendment as specified in Env-Sw 315.

(d) Each page of the closure plan shall bear the date of preparation or revision, as applicable, and the facility name and permit number.

(e) The closure plan shall be organized and prepared as follows:

(1) Section 1, titled "facility identification," shall provide the facility name, mailing address, location and permit number;

(2) Section 2, titled "closure schedule," shall provide the anticipated date of closure and a closure schedule that sets forth each discrete activity that will be undertaken to complete facility closure, the order in which the activities will be undertaken and the estimated length of time the activity will take;

(3) Section 3, titled "waste identification," shall identify all types of waste received or intended to be received by the facility during its active life;

(4) Section 4, titled "notifications," shall provide a description of how notice shall be given to facility users prior to terminating receipt of waste;

(5) Section 5, titled "closure requirements," shall provide:

a. A list of each major closure work task required to implement and complete closure of the facility;

b. A description of the procedures for completing all required closure work tasks; and

c. Design plans and specifications for construction of required closure systems;

(6) Section 6, titled "post-closure requirements," shall identify and describe all required post-closure testing, inspection, maintenance or monitoring that will be performed at the facility pursuant to the provisions of the solid waste rules and the permit;

(7) Section 7, titled "recordkeeping and reporting," shall identify and describe:

a. All recordkeeping and reporting obligations required of the facility following completion of the closure work identified in section 5 of the closure plan; and

b. Locations and provisions for storing facility records, including the operating records, following facility closure;

(8) Section 8, titled "other permits," shall:

a. Identify all other local, state and federal permits and approvals required to implement facility closure, including the implementation of all post-closure monitoring and maintenance requirements;

b. Identify the status of each permit and approval identified pursuant to a. above; and

c. For a landfill located on property not owned by the permittee, include a copy of the written executed access agreement required by Env-Sw 1003.03; and

(9) Section 9, titled “closure cost estimate,” shall provide a closure cost estimate prepared in accordance with the criteria in Env-Sw 1403.02.

Env-Sw 1106.05 Temporary Cessation of Facility Construction or Operations.

(a) A permittee shall be deemed to have abandoned the use of a facility if no wastes are received, processed or treated at the facility or if development of a facility under construction is discontinued for a period of 90 days, except as provided by (b) below.

(b) A facility shall not be deemed abandoned if the permittee provides written notice to the department identifying the conditions for the temporary cessation of operation and identifies the provisions for resuming operation or construction of the facility, including the following information:

- (1) Facility name, location by street and municipality, and permit number;
- (2) Activity(s) being temporarily discontinued;
- (3) Reason for the temporary discontinuance of activity(s);
- (4) Date activities are anticipated to resume; and
- (5) Provisions which shall be undertaken to protect the environment, public health and safety during the temporary discontinuance.

(c) Following notice of temporary cessation, the department shall notify the permittee whether additional actions shall be required to secure the facility and site to prevent adverse impact to the environment, public health and safety, based on information provided in the notice and other available information concerning the status of the facility.

(d) Failure by the permittee to take action to secure the facility and site as specified shall require the permittee to implement closure in accordance with the solid waste rules and the permit.

CHAPTER Env-Sw 1200 PERMIT-BY-NOTIFICATION FACILITY REQUIREMENTS

Statutory Authority: RSA 149-M:7

PART Env-Sw 1201 PURPOSE AND APPLICABILITY

Env-Sw 1201.01 Purpose. The purpose of the rules in this chapter is to:

(a) Prescribe the requirements and limitations for siting, designing, constructing, operating and closing a facility under the provisions of a permit-by-notification issued pursuant to Env-Sw 311; and

(b) Ensure, through the prescribed requirements and limitations, that permit-by-notification facilities shall be sited, designed, operated and closed in a manner that does not endanger the public health or adversely affect the environment and which minimizes the potential for accidents that could lead to personal injury or property damage.

Env-Sw 1201.02 Applicability. The rules in this chapter shall apply to all permit-by-notification facilities.

PART Env-Sw 1202 GENERAL REQUIREMENTS

Env-Sw 1202.01 Universal Requirements. All permit-by-notification facilities shall comply with the following:

- (a) The universal facility requirements in Env-Sw 1000;
- (b) The waste specific requirements in Env-Sw 900 as applicable to the type of waste managed by the facility; and
- (c) The requirements of this chapter.

Env-Sw 1202.02 Requirements for Operating Longer than 90-days.

(a) A permit-by-notification facility having an active life longer than 90 days shall comply with the requirements in Env-Sw 1100, with the following exceptions:

- (1) There shall be no requirement to submit final design plans and specifications for construction approval;
 - (2) There shall be no requirement to submit an operating plan, provided that:
 - a. A written operating plan which meets the requirements of Env-Sw 1105.11 is prepared prior to operating the facility;
 - b. The operating plan is available for use by the facility operator(s) and for inspection by the department pursuant to Env-Sw 2000;
 - c. The permittee submits in the permit application a signed statement which attests to the existence of the plan, and certifies that the plan meets the requirements of Env-Sw 1105.11; and
 - d. The facility operates in compliance with the solid waste rules and the permit; and
 - (3) There shall be no requirement to submit a closure plan, provided that:
 - a. A written closure plan that meets the requirements of Env-Sw 1106.04 is prepared prior to operating the facility;
 - b. The closure plan is available for use by the facility operator(s) and for inspection by the department pursuant to Env-Sw 2000;
 - c. The permittee submits in the permit application a signed statement which attests to the existence of the plan, and certifies that the plan meets the requirements of Env-Sw 1106.04; and
 - d. The facility closes in compliance with the solid waste rules and the permit.
- (b) A non-landfill permit-by-notification facility having an active life longer than 90 days shall comply with the following:
- (1) Env-Sw 403 through Env-Sw 406, if the facility is a collection, storage and transfer facility identified in Env-Sw 407;
 - (2) Env-Sw 503 through Env-Sw 506, if the facility is a processing or treatment facility

identified in Env-Sw 507 or a composting facility identified in Env-Sw 607 or an incinerator identified in Env-Sw 707;

(3) Env-Sw 603 through Env-Sw 606, if the facility is a composting facility identified in Env-Sw 607; and

(4) Env-Sw 703 through Env-Sw 706, if the facility is an incinerator identified in Env-Sw 707.

(c) A permit-by-notification landfill shall not be permitted to have an active life longer than 90 days unless:

- (1) The facility is located on publicly owned land;
- (2) The permittee is a government agency or unit or a political subdivision of the state; and
- (3) Vehicular access to the facility is physically restricted at all times when a facility operator is not present.

Env-Sw 1202.03 Consecutive Permits Prohibited. Consecutively dated permits-by-notification shall not be issued to a facility as a means to avoid obtaining a standard permit pursuant to the solid waste rules or as a means to avoid any requirement specified in Env-Sw 1202.02.

Env-Sw 1202.04 Obligation to Obtain Other Approvals. The existence of a permit-by-notification shall not affect a person's obligation to obtain all requisite federal, state or local permits, licenses or approvals, or to comply with all other applicable federal, state, district or local permits, ordinances, laws or approvals or conditions pertaining to the permit-by-notification activities.

Env-Sw 1202.05 Permittee and Operator Qualifications.

- (a) The permittee and facility owner shall be one in the same.
- (b) The permittee shall be in responsible charge of operating the facility.
- (c) The permittee shall be able to provide compliance certification pursuant to Env-Sw 303.14.
- (d) If the facility has an active life longer than 90 days, the operator(s) shall be certified pursuant to Env-Sw 1600.

Env-Sw 1202.06 Permit Transfer Limitations and Requirements.

- (a) A permit-by-notification shall be non-transferable, except as provided in (d) below.
- (b) In the event a permit-by-notification facility will be sold or otherwise conveyed to a second party, the second party shall apply pursuant to Env-Sw 311 to obtain a new permit-by-notification for the facility if the second party intends to continue operating the facility.
- (c) If the second party does not obtain a new permit-by-notification to continue operating the facility, the permittee of record shall close the facility in accordance with the solid waste rules and the permit prior to conveying the facility to the second party.
- (d) In the case of a closed permit-by-notification landfill, the following shall apply:

- (1) The applicable permit-by-notification shall be automatically transferred to the new property owner upon conveyance of the property to a new owner;
- (2) Prior to conveyance, the permittee of record shall disclose the existence of the closed facility to the potential new owner and inform the potential new owner of all permit obligations related thereto; and
- (3) Failure to provide such disclosure shall not alleviate a new owner, as permittee, from meeting any regulatory obligation relating to the facility.

PART Env-Sw 1203 SITING REQUIREMENTS

Env-Sw 1203.01 Location Restrictions, New Permit-by-Notification Facilities. The following restrictions shall apply to siting all new permit-by-notification facilities:

- (a) The facility shall not be sited on property that is subject to any on-going enforcement action by the department, unless the facility is approved by the department as part of the enforcement action and a copy of the approval is submitted with the application for the related permit-by-notification;
- (b) The facility shall not be sited within 50 feet of any property line;
- (c) The facility shall not be sited in a flood plain;
- (d) The facility shall be sited in conformance with Env-Sw 1003; and
- (e) If the facility has an active life longer than 90 days, it shall be sited in conformance with Env-Sw 1102.

Env-Sw 1203.02 Additional Location Restrictions for Landfills.

- (a) A permit-by-notification landfill shall not be sited less than 75 feet to surface water or wetlands.
- (b) A permit-by-notification landfill shall be located to provide at least 4 feet of vertical separation between the base of the disposal area and the seasonal high groundwater table.
- (c) A permit-by-notification landfill shall be located to provide at least 4 feet of vertical separation between the base of the disposal area and bedrock.
- (d) A permit-by-notification landfill shall not be sited less than 50 feet from the footprint of any landfill which is not yet capped.
- (e) A permit-by-notification landfill having an active life longer than 90 days shall be sited on publicly owned land only.

PART Env-Sw 1204 OPERATING REQUIREMENTS

Env-Sw 1204.01 General Operating Requirements. A permit-by-notification facility shall comply with the universal operating requirements in Env-Sw 1005 and the requirements of this part.

Env-Sw 1204.02 Authorized Waste. A permit-by-notification facility shall receive only those wastes specifically authorized in Env-Sw 407, Env-Sw 507, Env-Sw 607, or Env-Sw 707, as applicable to the type of facility being permitted.

Env-Sw 1204.03 Prohibited Waste. A permit-by-notification facility shall not receive the following types of solid waste:

- (a) Asbestos waste;
- (b) Explosive waste;
- (c) Contained gaseous waste, unless collected for recycling;
- (d) Liquid waste;
- (e) Infectious waste, except for those facilities explicitly authorized by the provisions of Env-Sw 507;
- (f) Animal carcasses;
- (g) Contaminated soils and other absorbent media; and
- (h) Out-of-state waste, unless the waste is received for recycling, not incineration or disposal.

Env-Sw 1204.04 Capacity Limits.

(a) The capacity of a permit-by-notification facility shall be limited to that which is specified in Env-Sw 407, Env-Sw 507, Env-Sw 607, and Env-Sw 707, as applicable to the type of facility being permitted.

(b) To assure compliance with RSA 149-M:11, IV(a), no permit-by-notification facility shall receive greater than 30 tons of waste per day as averaged over the active life of the facility.

Env-Sw 1204.05 Landfill Operating Requirements. The following requirements shall apply to operating all permit-by-notification landfills:

(a) At all times during facility operations, the permittee shall maintain cover materials at the site in a quantity sufficient to comply with all daily and final cover requirements specified by the solid waste rules, except publicly owned facilities with an active life longer than 90 days may maintain the cover materials at other locations readily accessible to the site and permittee;

(b) Only soil shall be used as cover material;

(c) Waste shall be placed, compacted and covered in a manner as to eliminate voids, limit settlement and otherwise limit the potential for sink-holes or surface openings to develop; and

(d) Waste shall be placed only within the vertical and lateral limits of the facility as identified on a plan submitted in the permit application pursuant to Env-Sw 311 and approved by the department by permit issuance.

PART Env-Sw 1205 CLOSURE REQUIREMENTS

Env-Sw 1205.01 Non-landfill Closure Requirements.

(a) A permit-by-notification non-landfill shall close in conformance with Env-Sw 1006.

(b) All waste shall be removed to an authorized facility that is not another permit-by-notification facility.

(c) Closure shall be completed within 30 days following the date of last waste receipt or before the expiration date of the permit, whichever is earlier.

Env-Sw 1205.02 Landfill Closure Requirements.

(a) A permit-by-notification landfill shall close in conformance with Env-Sw 1006.

(b) At least 2 feet of compacted soil shall be placed as final cover over all landfilled waste.

(c) If a greater depth than identified in (b) above was specified for the particular facility type in Env-Wm 2509 as effective on October 29, 1997, the greater depth shall be provided.

(d) Final cover shall be compacted, graded, seeded and mulched in a manner as to produce and sustain vegetative growth or otherwise stabilized to prevent erosion.

(e) Closure shall be completed within 30 days following the date of last waste receipt or before the expiration date of the permit, whichever is earlier, except as provided by (f) below.

(f) If the date of last waste receipt falls within a time period where seasonal factors prevent closure by the date specified in (e) above, the permittee may delay closure provided that:

(1) Within 10 days following the date of last waste receipt, the permittee provides a written notice to the department specifying:

- a. The facility has ceased receiving waste;
- b. Closure cannot be completed as required in (e) above due to seasonal factors; and
- c. The date by which closure will be completed as required by (4) below;

(2) The permittee shall control access to the facility by gates and bars or other means appropriate to the site to prevent unauthorized entry and dumping during the inactive, pre-closure period;

(3) The permittee shall take such action as necessary to otherwise secure the site against potential harm to the environment, human health and safety during the inactive, pre-closure period; and

(4) The permittee shall implement closure as soon as practicable under the circumstances.

(g) Following closure, the permittee shall assure that the integrity of the cover materials is maintained, that voids and sink holes do not develop, and that the site is otherwise protective of the environment, public health and safety.

(h) The permittee shall regularly inspect the facility and, when necessary, implement repairs or take other remedial action as needed to achieve and maintain compliance with the requirements of (g) above.

(i) In the event the disposal area is disturbed for any reason after closure, the permittee shall subsequently restore the area pursuant to (b) through (d) above.

(j) If buried waste is removed from a permit-by-notification landfill, the permittee shall dispose of the removed waste at an authorized facility.

Env-Sw 1205.03 Notification of Closure. Upon completion of all required closure activities at a permit-by-notification facility, the permittee shall certify in writing to the department that closure has been completed as required by the solid waste rules.

CHAPTER Env-Sw 1300 PUBLIC GRANTS FOR LANDFILL AND INCINERATOR CLOSURE

Statutory Authority: RSA 149-M:7

PART Env-Sw 1301 PURPOSE AND APPLICABILITY

Env-Sw 1301.01 Purpose. The purpose of the rules in this chapter is to:

(a) Implement RSA 149-M:41-50, which authorizes state grants to municipalities to encourage and assist them in closing unlined solid waste landfills and certain municipal incinerators; and

(b) Supplement RSA 149-M:41-50.

Env-Sw 1301.02 Applicability. The rules in this chapter shall apply to:

(a) Unlined municipal solid waste landfills, owned by New Hampshire municipalities and closed after July 1, 1984; and

(b) Municipal incinerators identified in RSA 149-M:42, IV.

PART Env-Sw 1302 COSTS ELIGIBLE FOR REIMBURSEMENT

Env-Sw 1302.01 Purpose. The rules in this part specify the criteria by which the department determines whether costs incurred by a municipality to close a facility identified in Env-Sw 1301.02 are costs eligible for a 20 % reimbursement through issuance of a grant.

Env-Sw 1302.02 Eligible Costs. A cost of facility closure shall be eligible for a 20% reimbursement through issuance of a grant, provided that:

(a) The cost meets the provisions of RSA 149-M:42, III;

(b) The municipality has paid the cost using funds raised by the municipality through taxation or loans approved by the voting members of the municipality; and

(c) The costs are not covered by other funds such as identified in Env-Sw 1303.02(h) or Env-Sw 1304.02(h).

PART Env-Sw 1303 APPLICATIONS FOR LANDFILL CLOSURE GRANTS

Env-Sw 1303.01 Applicability. The rules in this part shall apply to a municipality that has completed, or is in the process of completing, closure of a landfill identified in Env-Sw 1301.02(a) and is seeking to be reimbursed for related eligible costs as specified by Env-Sw 1302.02.

Env-Sw 1303.02 Grant Applications. A municipality seeking to be reimbursed for landfill closure costs shall submit a grant application that contains the following information:

- (a) Name, mailing address, and telephone number of the grant applicant;
- (b) Name and location of the landfill for which the grant award is being requested;
- (c) Landfill permit number, issued pursuant to RSA 149-M;
- (d) Groundwater release detection or groundwater management permit number, issued pursuant to RSA 485-C;
- (e) A photocopy of the warrant article, corporate resolution, or other legally binding document authorizing the municipality to undertake the closure project;
- (f) Closure project information, including:
 - (1) Name of engineering consultant;
 - (2) Name of construction contractor;
 - (3) Bid advertisement date;
 - (4) Contract award date; and
 - (5) Construction start date;
- (g) A schedule of the closure costs for which 20% reimbursement is being requested, with related supporting documentation necessary to substantiate that the costs are eligible costs as specified in Env-Sw 1302.02, including:
 - (1) Copies of all related authorized contracts, change orders, and amendments thereto;
 - (2) Copies of all related invoices; and
 - (3) Proof of payment;
- (h) Eligible cost financing information, including:
 - (1) Total eligible costs paid in cash;
 - (2) Total eligible costs paid through financing;
 - (3) Copies of the related institution-generated finance schedules; and
 - (4) Monies received from third party sources and used to close the landfill, other than benevolent gifts received from third party sources having no liability for closure costs, including but not limited to funds from the following sources:
 - a. U.S. Farmers Home Administration or successor agency;
 - b. U.S. Rural Development Administration;
 - c. U.S. Department of Housing and Urban Development;

- d. Community development block grants;
 - e. Potentially responsible party groups formed to collectively participate in the closure of the landfill; and
 - f. Insurance policy proceeds;
- (i) If closure construction is complete, certification of completion by a qualified professional engineer and acceptance of the closure project by the municipality pursuant to Env-Sw 1104.07(f);
 - (j) If closure construction is not complete, the estimated future eligible closure costs and related financing obligations; and
 - (k) A notarized statement, signed by a duly authorized representative for the applicant, affirming that:
 - (1) The applicant meets the requirements specified in RSA 149-M:46; and
 - (2) The material and information submitted is correct and complete to the best of the applicant's knowledge and belief.

PART Env-Sw 1304 APPLICATIONS FOR INCINERATOR CLOSURE GRANTS

Env-Sw 1304.01 Applicability. The rules in this part shall apply to a municipality that has completed closure of an incinerator identified in Env-Sw 1301.02(b) and is seeking to be reimbursed for related eligible costs as specified by Env-Sw 1302.02.

Env-Sw 1304.02 Grant Applications. A municipality seeking to be reimbursed for incinerator closure costs shall submit a grant application that contains the following information:

- (a) Name, mailing address, and telephone number of the grant applicant;
- (b) Name and location of the incinerator for which the grant award is being requested;
- (c) Incinerator permit number, issued pursuant to RSA 149-M;
- (d) Groundwater release detection or groundwater management permit number if applicable, issued pursuant to RSA 485-C;
- (e) A photocopy of the warrant article, corporate resolution, or other legally binding document authorizing the municipality to undertake the closure project;
- (f) Closure project information, including:
 - (1) Name of engineering consultant;
 - (2) Name of construction contractor;
 - (3) Bid advertisement date;
 - (4) Contract award date;
 - (5) Construction start date; and

- (6) Construction completion date;
- (g) A schedule of the closure costs for which 20% reimbursement is being requested, with related supporting documentation to substantiate that the costs are eligible costs as specified in Env-Sw 1302.02, including:
 - (1) Copies of all related authorized contracts, change orders, and amendments thereto;
 - (2) Copies of all related invoices; and
 - (3) Proof of payment;
- (h) Eligible cost financing information, including:
 - (1) Total eligible costs paid in cash;
 - (2) Total eligible costs paid through financing;
 - (3) Copies of the related institution-generated finance schedules; and
 - (4) Monies received from third party sources and used to close the incinerator, other than benevolent gifts received from third party sources having no liability for closure costs, including but not limited to funds from the following sources:
 - a. U.S. Farmers Home Administration or successor agency;
 - b. U.S. Rural Development Administration;
 - c. U.S. Department of Housing and Urban Development;
 - d. Community development block grant;
 - e. Potentially responsible party groups formed to collectively participate in the closure of the incinerator; and
 - f. Insurance policy proceeds;
- (i) Certification of completion by a qualified professional engineer and acceptance of the closure project by the municipality pursuant to Env-Sw 1104.07(f); and
- (j) A notarized statement, signed by a duly authorized representative for the applicant, affirming that:
 - (1) The applicant meets the requirements specified in RSA 149-M:46; and
 - (2) The material and information submitted is correct and complete to the best of the applicant's knowledge and belief.

PART Env-Sw 1305 APPLICATION FILING AND PROCESSING

Env-Sw 1305.01 Purpose. The rules in this part specify requirements for filing and processing a grant application.

Env-Sw 1305.02 Application Filing. A grant application shall be submitted to the department, in writing, by the applicant on forms provided by the department.

Env-Sw 1305.03 Application Processing. The department shall process an application in accordance with RSA 541-A:29.

Env-Sw 1305.04 Application Decision.

(a) A grant application shall be approved if the application is complete pursuant to the provisions of Env-Sw 1303 and Env-Sw 1304.

(b) A municipality having an approved grant application shall be eligible to receive a grant.

(c) Grants, not to exceed 20% of the eligible costs associated with an approved application, shall be awarded and disbursed as specified in Env-Sw 1306 and Env-Sw 1307.

PART Env-Sw 1306 GRANT AWARDS

Env-Sw 1306.01 Purpose. The rules in this part specify the criteria by which a grant shall be awarded to a municipality that has an approved grant application as specified in Env-Sw 1303 and Env-Sw 1304.

Env-Sw 1306.02 Grant Priorities. A grant shall be awarded in a manner consistent with the priorities established in RSA 149-M:47 and RSA 149-M:49.

Env-Sw 1306.03 Grant Funding. A grant shall be awarded based on funding pursuant to RSA 149-M:50.

PART Env-Sw 1307 DISBURSEMENT OF GRANT AWARDS

Env-Sw 1307.01 Purpose. The rules in this part specify how the department disburses grant monies to a municipality following the award of a grant.

Env-Sw 1307.02 Financed Eligible Costs. Subject to Env-Sw 1307.04, grant awards for eligible costs that the municipality has paid through financing shall:

(a) Be paid by the department on a schedule that corresponds to the municipality's payback schedule;

(b) Include 20% of the principal payment associated with the eligible costs; and

(c) Include 20% of the debt service payment associated with the eligible costs.

Env-Sw 1307.03 Eligible Costs Paid with Cash. Subject to Env-Sw 1307.04 and Env-Sw 1308.03, grant awards for eligible costs that the municipality has paid with cash shall:

(a) Be paid by the department as a single payment following grant approval; and

(b) Not exceed 20% of the eligible costs.

Env-Sw 1307.04 Failure to Comply. Failure to comply with RSA 149-M:46 shall result in loss of grant payment.

PART Env-Sw 1308 ADJUSTMENTS TO GRANT AWARDS

Env-Sw 1308.01 Purpose. The rules in this part specify how the department adjusts the value of a municipality's grant award following the municipality's receipt or expenditure of funds for facility closure not previously identified in the grant application.

Env-Sw 1308.02 Adjustments Due to Receipt of New Third Party Funds.

(a) The department shall adjust future financed grant award payments to reflect the receipt of additional funds by a municipality from third party sources relating to the closure project other than benevolent gifts received from third party sources having no liability for closure costs.

(b) For grant awards previously paid in a lump sum, or financed grant awards for which all amortized grant payments have been made, the municipality shall reimburse the state for the amount of excess grant money received as a result of receiving additional funds from a third party relating to the closure project.

Env-Sw 1308.03 Adjustments Due to New Expenditures.

(a) A municipality seeking to be reimbursed for the expenditure of funds for facility closure not previously disclosed in a grant application shall:

(1) File a landfill closure grant application for the additional landfill expenditures as specified in Env-Sw 1303; or

(2) File an incinerator closure grant application for the additional incinerator expenditures as specified in Env-Sw 1304.

(b) The application shall be processed in accordance with Env-Sw 1305 and Env-Sw 1306.

(c) The department shall adjust future financed grant award payments to reflect the expenditure of additional funds by a municipality for eligible costs relating to the closure project.

(d) The department shall adjust grant awards previously paid in a lump sum, or financed grant awards for which all amortized grant payments have been made, by reimbursing the municipality in a lump sum any shortage of grant award money due.

Env-Sw 1308.04 Notification of Receipt of Additional Funds.

(a) A municipality which received a grant award paid in a lump sum, or a grant award for which all amortized grant payments have been made, shall notify the department within 30 days following the receipt or expenditure of funds for facility closure not previously disclosed to the department.

(b) A municipality scheduled to receive future financed grant award payments shall disclose to the department within 30 days of a scheduled grant payment, whether the municipality has received or expended additional funds for facility closure not previously disclosed to the department.

CHAPTER Env-Sw 1400 FINANCIAL ASSURANCE

Statutory Authority: RSA 149-M:7

PART Env-Sw 1401 PURPOSE AND APPLICABILITY

Env-Sw 1401.01 Purpose. The purpose of the rules in this chapter is to identify requirements and procedures for providing and maintaining a financial assurance plan to guarantee the cost of closing a facility and, for a facility subject to 40 CFR 258.58, the cost of corrective action.

Env-Sw 1401.02 Applicability.

- (a) The rules in this chapter shall apply to all facilities, except as provided by (b) below.
- (b) The rules in this chapter shall not apply to a:
 - (1) Permit-exempt facility;
 - (2) Permit-by-notification facility;
 - (3) Facility for which the closure cost estimate, prepared in accordance with Env-Sw 1403.02, is \$3,000 or less;
 - (4) Emergency permit facility; or
 - (5) Limited private non-landfill facility.

PART Env-Sw 1402 DEFINITIONS

Env-Sw 1402.01 “Binding commitment” means a signed loan agreement between the permittee and the state of New Hampshire and approved by the governor and council.

Env-Sw 1402.02 “Debt service” means the amount of principal and interest due on a loan in the current year.

Env-Sw 1402.03 “Deficit” means a negative balance calculated by taking the beginning fund balance plus annual revenue minus total annual expenditures.

Env-Sw 1402.04 “Local government” means a legally-recognized political subdivision in the state of New Hampshire, including solid waste districts, whose revenue is generated by the same voters as are responsible for the closure of the regulated municipal solid waste landfill facility.

Env-Sw 1402.05 “Total revenues” means proceeds from all taxes and fees collected by the local government responsible for landfill closure, but does not include the proceeds from borrowing or asset sales or proceeds earned from funds managed by local government on behalf of a specific third party.

PART Env-Sw 1403 FINANCIAL ASSURANCE REQUIREMENTS

Env-Sw 1403.01 Financial Assurance Plan.

- (a) A permittee shall establish, implement and maintain an approved financial assurance plan to guarantee the cost of facility closure.
- (b) A financial assurance plan shall include:
 - (1) A closure cost estimate prepared in accordance with Env-Sw 1403.02;
 - (2) Provisions for guaranteeing the cost of facility closure based on one or any combination

of the options specified in Env-Sw 1403.03 through Env-Sw 1403.06;

(3) For the options specified in Env-Sw 1403.03, the identity of the financial institution providing the guarantee; and

(4) For a local government proposing to use the state approved financial test to assure its obligations, as provided in Env-Sw 1403.03:

- a. A letter signed by the local government's chief financial officer which:
 1. Identifies all current cost estimates covered by a financial test, as described in Env-Sw 1403.05; and
 2. Provides evidence of and certifies that the local government meets the conditions of Env-Sw 1403.05(a) through (h);
- b. The local government's year-end financial statements for the latest fiscal year, audited by an independent, certified public accountant (CPA) who conducts comprehensive audits, with:
 1. The unqualified opinion of the auditor; or
 2. The qualified opinion of and a written explanation by the auditor as to why the qualification should be deemed insufficient to warrant disallowance of the financial test;
- c. A report to the local government by the local government's independent CPA, as follows:
 1. The report shall be based on performing a review of the financial ratios required by Env-Sw 1403.05(a)(3), if applicable, and the requirements of Env-Sw 1403.05(b) and Env-Sw 1403.05(c)(3) and (4); and
 2. The report shall state the procedures performed and the CPA's findings; and
- d. A copy of the comprehensive annual financial report (CAFR) used to comply with Env-Sw 1403.05(d) or certification that the requirements of Governmental Accounting Standards Board Statement 18, No. 101-A, published August, 1993 have been met.

(c) A proposed financial assurance plan shall be:

- (1) Submitted by the permittee in accordance with Env-Sw 303; and
- (2) Reviewed and approved by the department pursuant to Env-Sw 1404.

Env-Sw 1403.02 Closure Cost Estimation.

(a) The dollar amount guaranteed by a financial assurance plan shall be no less than the estimated total closure costs determined pursuant to (b) through (g) below.

(b) The closure cost estimate shall be figured based on representative current market rates for having a third party perform all required closure and post-closure activities at the point in the facility's active life when the extent and manner of facility operations in compliance with permit conditions and applicable

laws and rules makes closure the most expensive, as indicated by the approved facility closure plan.

(c) For a landfill constructed in phases, the permittee may figure closure costs in accordance with (b) above based on the constructed area of the facility only, instead of the entire permitted footprint.

(d) Any facility subject to the corrective action requirements specified in 40 CFR 258.58, shall comply with the financial assurance requirements specified in 40 CFR 258, Subpart G.

(e) The cost of removing and disposing of all wastes not permitted to remain at the facility following closure shall be included in the closure cost estimate, excluding actively managed select processed recyclable materials.

(f) Salvage value from the sale of facility structures, equipment or other assets associated with the facility and profits from the sale of recyclable materials shall not be treated as a credit to reduce total closure costs.

(g) The closure cost estimate shall:

(1) Be itemized and documented to show the unit cost and quantity of each item, service, and activity required to close the facility in accordance with the solid waste rules and the approved facility closure plan;

(2) Include a line item for contingencies equaling no less than 10% of the total itemized costs;

(3) For landfills, include the following costs if final design plans and specifications for landfill closure are not yet approved, include a line item for:

a. The cost of preparing final design plans and specifications for closure; and

b. The cost of the fee specified in Env-Sw 310.08(b) for filing an application for a type II permit modification to obtain final design plan approval for construction of all required landfill closure systems; and

(4) For landfills, be certified by a qualified professional engineer.

Env-Sw 1403.03 Financial Assurance Mechanisms, All Facilities.

(a) Financial assurance shall be provided in one, or any combination, of the following forms:

(1) An irrevocable letter of credit issued for a period of at least one year from an institution whose operations are regulated and examined by a federal or New Hampshire state agency;

(2) An insurance policy, except that insurance issued by an affiliated captive insurance company shall not be acceptable;

(3) A surety bond, issued by a surety company listed as an acceptable surety on federal bonds in Circular 570 of the U.S. Department of the Treasury;

(4) A trust fund established in accordance with the laws of the state of New Hampshire;

(5) For a landfill, a binding commitment between the permittee and the state of New Hampshire for a state revolving fund loan designated for closure of the landfill; or

(6) Another mechanism that meets the criteria provided in 40 CFR 258.74(i).

(b) If using a surety bond, insurance policy or letter of credit, the permittee shall also establish a standby trust to receive the proceeds of the surety bond, insurance policy or letter of credit.

(c) Each financial assurance instrument specified in (a) and (b) above, except (a)(5), shall specifically identify the state of New Hampshire as the beneficiary.

(d) Funds held in trust accounts may be invested, but shall provide for the preservation of principal.

(e) Financial assurance documents, including a standby trust, shall be as specified by 40 CFR 264.151, with the following revisions:

(1) The phrase “hazardous waste” shall be replaced with the phrase “solid waste”;

(2) The phrase “EPA administrator” shall be replaced with the phrase “department on behalf of the state of New Hampshire”;

(3) All cites to “40 CFR” shall be replaced with “RSA 149-M and the solid waste rules”; and

(4) The term “RCRA C” shall be omitted.

(f) Letters of credit shall include a provision to automatically extend the expiration date by at least one year unless, at least 120 days before the current expiration date, the issuing institution notifies the permittee and the department by certified mail, return receipt requested, of a decision to not extend the expiration date.

(g) Insurance policies and surety bonds shall include a provision to prohibit any cancellation without prior notice of cancellation being sent to the permittee and the department by certified mail, return receipt requested, at least 120 days before the effective date of cancellation.

Env-Sw 1403.04 Financial Assurance Mechanisms, Public Facilities.

(a) A public facility not subject to 40 CFR 258 shall provide proof of financial assurance:

(1) In accordance with Env-Sw 1403.03; or

(2) Through an alternative comprehensive plan which guarantees that all funds for the estimated facility closure costs shall be readily available for closure activities.

(b) A public facility subject to 40 CFR 258 shall provide proof of financial assurance using:

(1) The mechanisms identified in Env-Sw 1403.03;

(2) The local government financial test specified in Env-Sw 1403.05, if qualified pursuant to (c) below; or

(3) The local government guarantee specified in Env-Sw 1403.06 if qualified pursuant to (c) below.

(c) A public facility shall be qualified to use a financial assurance mechanism specified in Env-Sw 1403.05 and Env-Sw 1403.06 if the facility is qualified for the state 20% landfill closure grant program as determined in accordance with Env-Sw 1300.

Env-Sw 1403.05 Local Government Financial Test.

(a) A local government proposing to assure its obligations under the state approved local government financial test shall meet the following requirements as applicable:

- (1) If the local government has outstanding, rated, general obligation bonds not secured by insurance, a letter of credit, or other collateral or guarantee, all such general obligation bonds shall have a current rating of Aaa, Aa, A, or Baa, as issued by Moody's, or AAA, AA, A, or BBB, as issued by Standard and Poor's;
- (2) The local government shall be included in an outstanding bond issue through the New Hampshire municipal bond bank and shall not be in default; or
- (3) The local government shall satisfy each of the following financial ratios based on the local government's most recent audited annual financial statement:
 - a. The ratio of cash plus marketable securities to total expenditures shall be greater than or equal to 0.05, using available cash and marketable securities held by the local government on the last day of the fiscal year, excluding cash and marketable securities designated to satisfy past obligations or special purposes other than landfill closure such as pensions and capital reserve funds not held for landfill closure purposes; and
 - b. The ratio of annual debt service to total expenditures shall be less than or equal to 0.20, where total expenditures shall exclude capital outlays, debt repayment, capital reserve funds not expended for landfill closure purposes, trust funds, and pension funds.

(b) The local government proposing to assure its obligations under the state approved local government financial assurance test shall:

- (1) Prepare its financial statements in conformity with generally accepted accounting principles for governments; and
- (2) Have its financial statements audited by an independent certified public accountant.

(c) A local government shall not be eligible to assure its obligations under the state approved local government financial test if it:

- (1) Is currently in default on any outstanding general obligation bonds or outstanding bonds with the New Hampshire municipal bond bank;
- (2) Has any outstanding general obligation bonds rated lower than Baa as issued by Moody's or BBB as issued by Standard and Poor's;
- (3) Operated at a deficit equal to 5% or more of total annual revenue in each of the past 2 fiscal years; or
- (4) Receives an adverse opinion, disclaimer of opinion, or other qualified opinion from the independent certified public accountant auditing its financial statement and negatively impacting the current financial position of the local government.

(d) A local government shall disclose in each comprehensive annual financial report (CAFR) all closure and post-closure care costs and corrective action costs, if any, which the local government has

assured through the financial test provisions in 40 CFR 258.50.

(e) Disclosure pursuant to (d) above shall include:

- (1) The nature and source of the closure and post-closure care requirements;
- (2) The reported liability at the balance sheet date;
- (3) The estimated total closure and post-closure care cost remaining to be recognized;
- (4) The percentage of landfill capacity used to date; and
- (5) The estimated landfill life in years.

(f) Conformance with Governmental Accounting Standards Board Statement 18, No. 101-A, published August, 1993 shall be deemed in compliance with (d) above.

(g) Subject to (h) below, a local government may use the state approved local financial assurance test to assure closure, post-closure, and corrective action costs that equal up to 43% of the local government's total annual revenue.

(h) If the local government assures other environmental obligations through a financial test, including those associated with underground injection control wells (UIC) facilities under 40 CFR 144.62, petroleum underground storage tank facilities under 40 CFR 280, polychlorinated biphenyls (PCB) storage facilities under 40 CFR 761, and hazardous waste treatment, storage, and disposal facilities under 40 CFR 264 and 265, it shall:

- (1) Add those costs to the closure, post-closure, and corrective action costs it seeks to assure through use of the state approved local financial test; and
- (2) Assure that the total shall not exceed 43% of the local government's total annual revenue.

(i) A local government shall obtain an alternate financial assurance instrument as specified in Env-Sw 1403.03 or Env-Sw 1403.06 for those costs that exceed the limits set in (g) and (h) above.

Env-Sw 1403.06 Local Government Guarantee.

(a) For a facility meeting the requirements of Env-Sw 1403.04(c), a local government may assure its obligations by obtaining a written guarantee provided by a guarantor pursuant to (b) below.

(b) The guarantor shall be a political subdivision in New Hampshire and comply with the terms of the written guarantee.

(c) The guarantee shall:

- (1) Provide that if the permittee fails to perform closure, post-closure care, or corrective action for a facility covered by the guarantee, the guarantor shall:
 - a. Perform, or pay a third party to perform, closure, post-closure care, or corrective action as required; or
 - b. Establish a fully-funded trust fund as specified in 40 CFR 258.74(a) identifying the state of New Hampshire as the intended beneficiary and established in accordance with

the laws of the state of New Hampshire;

(2) Include provisions specifying that the guarantee shall remain in force until the earlier of the following dates:

- a. 120 days following the receipt date of a written notice of cancellation sent by certified mail, return receipt requested to the local government and to the department; or
- b. The date the local government implements an approved financial assurance replacement pursuant to Env-Sw 1405.03; and

(3) Include a provision specifying that if the guarantor ceases to meet the requirements in Env-Sw 1403.05, the guarantor shall provide alternate assurance for the duration of the agreement.

PART Env-Sw 1404 REVIEW AND APPROVAL

Env-Sw 1404.01 Review. The department shall review a proposal for financial assurance as part of the permit application or closure plan review process, as applicable.

Env-Sw 1404.02 Approval. A proposal for financial assurance shall not be approved if the department determines that the proposal does not:

- (a) Meet the requirements for financial assurance specified in this part; or
- (b) Satisfy the requirements of RSA 149-M:9, X.

PART Env-Sw 1405 ADJUSTMENTS AND CHANGES

Env-Sw 1405.01 Modifications.

(a) Any proposal to change an approved financial assurance plan shall be submitted to the department as an application for a type II permit modification pursuant to the provisions of Env-Sw 315.

(b) Applications to modify an approved financial assurance plan shall include all of the information required by Env-Sw 1404.01.

Env-Sw 1405.02 Annual Updates.

(a) A permittee shall submit an annual update of the facility's closure cost estimate to the department no later than the anniversary of the permit issue date or an alternative date agreed upon by the department and the permittee in writing.

(b) The financial assurance mechanism shall be updated in an amount consistent with the most current closure cost estimate.

(c) A local government using either of the mechanisms in Env-Sw 1403.05 or Env-Sw 1403.06 shall submit documentation required in Env-Sw 1403.01(b)(4) annually within 180 days following the close of the local government's fiscal year.

Env-Sw 1405.03 Replacement.

(a) A permittee shall submit a revised financial assurance plan for approval pursuant to Env-Sw

1405.01 within 30 days of learning that any portion of its financial assurance shall be canceled or not renewed by the issuer.

(b) The permittee shall demonstrate that it has obtained replacement financial assurance promptly upon receiving the department's approval of a revised plan, but no later than 30 days before the cancellation or expiration date of the existing financial assurance.

(c) A local government using the state approved local government financial test to assure its obligations shall satisfy the requirements of the financial test at the close of each fiscal year. If the local government no longer meets the requirements of the local government financial test it shall, within 210 days following the close of the local government's fiscal year, obtain alternative financial assurance as specified in Env-Sw 1403.03.

CHAPTER Env-Sw 1500 CERTIFICATION OF WASTE-DERIVED PRODUCTS

Statutory Authority: RSA 149-M:7

PART Env-Sw 1501 PURPOSE AND APPLICABILITY

Env-Sw 1501.01 Purpose. The purpose of the rules in this chapter is to establish criteria and procedures by which waste-derived products, as defined by Env-Sw 102-104, shall be certified for distribution and use.

Env-Sw 1501.02 Applicability.

(a) The rules in this chapter shall apply to persons distributing or using a waste-derived product in New Hampshire, except wood ash as specified by (b) below.

(b) The rules in this chapter shall not apply to persons who distribute or use wood ash for agricultural land application in compliance with Env-Sw 1700.

PART Env-Sw 1502 CERTIFICATION REQUIREMENTS

Env-Sw 1502.01 Certification Required.

(a) Except as specified by (b) below, no person shall distribute or use a waste-derived product within New Hampshire unless the product is:

- (1) Certified for distribution and use in accordance with this chapter; and
- (2) Used in accordance with the provisions of the certification.

(b) A person distributing and using wood ash for agricultural land application shall comply with the requirements of Env-Sw 1700 instead of the requirements of (a) above.

Env-Sw 1502.02 Status of Certified Waste-Derived Products.

(a) A waste-derived product certified for distribution and use pursuant to this chapter, which is actively managed and used in accordance with the applicable provisions of the certification, shall be deemed not a solid waste and therefore not subject to regulation by the solid waste rules.

(b) Certification granted pursuant to this chapter shall not constitute an endorsement by the department of the waste-derived product.

(c) Certification shall not mean that a product is benign to the environment, public health and safety or that the product will perform according to consumer expectations or manufacturer or distributor representations.

(d) Certification shall not constitute authorization for a facility producing a waste-derived product to be exempt from the solid waste rules. It shall be the waste-derived product, not the waste used to manufacture the product, which is certified and thereby deemed not a solid waste.

(e) Certification shall not affect any person's obligation to obtain all requisite federal, state or local permits, licenses or approvals to comply with all other applicable federal, state, district or local permits, ordinances, laws or approvals or conditions pertaining to distribution, use and disposal of a certified waste-derived product.

(f) Certification shall not exempt any person from the provisions of RSA 149-M and the solid waste rules when the certified waste-derived product resumes the status of a solid waste, including when it ceases to be actively managed or is otherwise abandoned or discarded.

Env-Sw 1502.03 General Provisions for Obtaining Certification.

(a) Waste-derived products shall be certified for distribution and use pursuant to one of the following provisions:

(1) Certain waste-derived products and groups of waste-derived products sharing common characteristics shall be automatically certified by rule, as provided in Env-Sw 1503; and

(2) Waste-derived products not certified by rule pursuant to Env-Sw 1503 shall become certified if, based on an application filed pursuant to Env-Sw 1505, the department determines that the waste-derived product meets the criteria for certification specified in Env-Sw 1504.

(b) Pursuant to Env-Sw 1508, the department shall compile, maintain and distribute a list of all certified waste-derived products including:

(1) Those certified by rule pursuant to Env-Sw 1503; and

(2) Those certified by application pursuant to Env-Sw 1505.

(c) For a non-proprietary waste-derived product not certified and listed pursuant to Env-Sw 1508, any person may seek to have the product certified by filing an application for certification pursuant to Env-Sw 1505.

(d) For a proprietary waste-derived product not certified and listed pursuant to Env-Sw 1508, only the person having proprietary control of the product may file an application for certification pursuant to Env-Sw 1505.

Env-Sw 1502.04 General Requirements and Limitations. Certification of a waste-derived product, whether provided by rule pursuant to Env-Sw 1503 or pursuant to the application provisions of Env-Sw 1505, shall be subject to each of the following general requirements and limitations:

(a) A certified waste-derived product shall not contain:

(1) A hazardous waste;

- (2) A hazardous air pollutant including asbestos waste;
 - (3) Any waste identified in Env-Sw 900 as non-reusable, including asbestos waste and infectious waste; or
 - (4) Any other waste requiring treatment and disposal to protect human health and the environment from exposure hazards documented in nationally recognized scientific and public health studies and publications;
- (b) A certified waste-derived product, if produced from a waste identified in Env-Sw 900, shall be subject to the reuse requirements and limitations specified in Env-Sw 900;
- (c) The certified waste-derived product shall not be distributed or used except in compliance with all applicable state and federal laws;
- (d) Distributors and users of certified waste-derived products shall manage the products in conformance with the universal environmental performance standards in Env-Sw 1002;
- (e) When specified by the solid waste rules as a condition of the certification or when required to comply with state or federal marketing or consumer protection laws, distributors of certified waste-derived products shall disclose the following information to consumers:
- (1) The content and nature of the waste-derived product contained in the product;
 - (2) The proper uses of the materials and any restrictions related thereto;
 - (3) Any hazards that might result from use of the waste-derived product as directed;
 - (4) Proper disposal methods; and
 - (5) Other such information as may be required by applicable state or federal marketing or consumer protection laws; and
- (f) Certification granted pursuant to Env-Sw 1505 shall be subject to revocation and suspension pursuant to Env-Sw 1509.

PART Env-Sw 1503 WASTE-DERIVED PRODUCTS CERTIFIED BY RULE

Env-Sw 1503.01 Purpose.

- (a) The purpose of the rules in this part is to identify waste-derived products which are deemed certified by rule for distribution and use.
- (b) The rules in this part are intended to certify by rule all waste-derived products which are common to the market place and pose no greater risk to the environment, public health and safety than exists by distributing and using comparable products which are not waste-derived.
- (c) The waste-derived products identified in Env-Sw 1503.04 through Env-Sw 1503.14 are not necessarily mutually exclusive. Due to the diversity of waste-derived products, it is plausible for a given product to be certified for distribution and use under more than one section of this part.

Env-Sw 1503.02 Applicability. The rules in this part shall apply to all persons distributing or using in New Hampshire any of the waste-derived products identified herein as certified by rule for distribution

and use.

Env-Sw 1503.03 General Provisions. The waste-derived products identified in Env-Sw 1503.04 through Env-Sw 1503.16 shall be deemed certified for distribution and use, subject to the requirements and limitations specified in Env-Sw 1502.04.

Env-Sw 1503.04 Salvaged Materials and Items.

(a) Salvaged materials and items shall be deemed certified for distribution and use for their original intended purpose provided that when so used, the materials and items shall not pose a greater risk to the environment, public health or safety than when first marketed and used.

(b) Salvaged materials and items specified by (a) above shall include:

- (1) Used equipment which is cleaned, repaired and reconditioned for continued use in a manner consistent with the purpose of the equipment when originally marketed, such as used lawnmowers, tools and furniture;
- (2) Used brick reused as brick;
- (3) Auto parts removed from a vehicle, repaired or reconditioned to a serviceable condition, and reused on another vehicle for their originally prescribed purpose;
- (4) Non-hazardous latex paint used as paint;
- (5) Scrap fabric reused as fabric; and
- (6) Scrap lumber reused as lumber.

Env-Sw 1503.05 Cloned Products.

(a) A waste-derived product serving the same purpose and of the same material composition as the discarded product from which it is derived, hereafter referred to as a cloned product, shall be deemed certified for distribution and use for said purpose, provided that the cloned product, when used for its intended purpose, shall not pose a greater risk to the environment, public health or safety than the product from which it is cloned.

(b) Cloned products as specified in (a) above shall include:

- (1) A paper product made from a comparable discarded paper product;
- (2) Glass products made from a comparable discarded glass product;
- (3) A plastic product made from a comparable discarded plastic product;
- (4) A metal product made from a comparable discarded metal product;
- (5) A textile product made from a comparable discarded textile product;
- (6) A wood product made from a comparable discarded wood product;
- (7) An asphalt product made from a comparable discarded asphalt product; and

- (8) A gypsum product made from a comparable discarded gypsum product.

Env-Sw 1503.06 Products from Select Processed Recyclables.

(a) A product which is made by substituting a processed select recyclable material, as defined by Env-Sw 104, for a raw material and which is comparable in form and function, although not necessarily material composition, to an existing non-waste-derived product, shall be deemed certified for distribution and use for the same purpose as the comparable non-waste-derived product, provided that:

- (1) The waste-derived product shall not be used to fill land or water bodies or to amend or mix with soils for agricultural or other purposes, unless the product is also certified for such purpose pursuant to Env-Sw 1503.07; and
- (2) The waste-derived product shall perform as effectively or more effectively than the comparable existing non-waste-derived product(s).

(b) The waste-derived products specified by (a) above shall include:

- (1) Synthetic fabrics made from used plastic soda bottles and other discarded plastic materials, comparable in form, function and performance to non-waste derived fabrics;
- (2) Reflectorized paint produced using glass beads made from discarded glass containers, comparable in form, function and performance to reflectorized paint produced using glass beads from virgin materials; and
- (3) Any product into which a select processed recyclable material is incorporated and which, by form, function and performance, is indistinguishable from a non-waste-derived product in the market place except by knowing through labeling or other external information that the product contains a recyclable material.

Env-Sw 1503.07 Products Meeting Published State or National Standards.

(a) A waste-derived product which meets a published standard shall be deemed certified for distribution and use for the purpose prescribed in the published standard, provided that:

- (1) The standard shall be published by an agency or organization having no direct sales interest in the product, as identified in (b) below; and
- (2) Production, distribution and use of the waste-derived product for the intended purpose shall not:
 - a. Cause a violation of the universal environmental performance standards specified in Env-Sw 1002; or
 - b. Pose a greater risk to the environment, public health and safety than is posed by a comparable existing non-waste-derived alternative product or, if no such comparable product exists, by disposing of the waste of origin in accordance with the solid waste rules.

(b) The published standards referenced in (a) above shall include standards published by:

- (1) The ASTM International (ASTM); and

- (2) New Hampshire and federal agencies which establish standards for the procurement or distribution of goods for public use or consumption, including departments overseeing transportation, environmental protection, health and welfare, agriculture, education and defense.
- (c) The subject waste-derived products shall include:
 - (1) Coal-fired electric power plant fly ash used as a lightweight aggregate in concrete masonry units meeting the standard published in ASTM C-331-03; and
 - (2) Processed glass aggregate for roadway construction meeting a published state or federal highway construction standard.

Env-Sw 1503.08 Waste Paper for Bulking. Shredded waste paper and cardboard shall be deemed certified for distribution and use as a bulking agent for composting, including septage or sludge composting and as a bulking agent for landfilling, including septage or sludge landfilling.

Env-Sw 1503.09 Derivatives of Discarded Wood. Chips, shavings, and sawdust from virgin wood or from pallets or crates meeting the criteria for permit exemption in Env-Sw 302.03(b)(11), shall be deemed certified for distribution and use as:

- (a) Fuel;
- (b) Mulch;
- (c) Animal bedding; and
- (d) A bulking agent for composting or landfilling, including septage or sludge composting or landfilling, provided that at least 80 percent of the wood material is 3/4 inch, or less, in size.

Env-Sw 1503.10 Waste-derived Compost. Compost derived from waste shall be deemed certified by rule for distribution and use as follows:

- (a) If Class AA compost, for use as compost without restriction;
- (b) If Class A compost, for use as compost within the limits identified in Env-Sw 605.07 and subject to identification in accordance with Env-Sw 605.09; and
- (c) If Class A compost except for particle size being greater than 10 millimeters (0.39 inches), for use in landfill cover systems pursuant to Env-Sw 605.08.

Env-Sw 1503.11 Soils Decontaminated by Treatment Processes. Clean soil derived from contaminated soil, by having fully treated the soil at an authorized facility to meet the standards specified in Env-Sw 903, shall be deemed certified for distribution and use as soil, excluding uses:

- (a) In residential applications;
- (b) In playground applications;
- (c) Within the 100-year flood plain or a wetland;
- (d) On or in lands used for the production of crops for direct human consumption;
- (e) Within a recharge area of any sole source drinking water supply; or

- (f) Within 100 feet of any surface water.

Env-Sw 1503.12 Wood Ash as a Bulking Agent or Odor Control Agent. Wood ash that is certified for land application pursuant to Env-Sw 1700 shall be deemed certified for distribution and use as:

- (a) An approved bulking agent for composting, including sludge composting; and
- (b) An odor control agent for septage and sludge management.

Env-Sw 1503.13 Manufactured Topsoil. Topsoil which is manufactured using wood ash shall be deemed certified for distribution and use as topsoil provided that:

- (a) The wood ash is certified for land application pursuant to Env-Sw 1700; and
- (b) The other topsoil ingredients shall be limited to one or more of the following:
 - (1) Sludge, if in compliance with Env-Ws 800;
 - (2) Yard waste; or
 - (3) Uncontaminated soil, not including soil certified pursuant to Env-Sw 1503.11.

Env-Sw 1503.14 Coal Ash. Boiler slag from the combustion of coal shall be deemed certified for distribution and use as a raw material for industrial and commercial purposes.

Env-Sw 1503.15 Methane Fuel. Methane fuel derived from the decomposition of waste at an authorized facility shall be deemed certified for distribution and use as fuel, provided that it meets market fuel standards.

Env-Sw 1503.16 Energy. Energy derived from the combustion of solid waste at authorized facilities shall be deemed certified for distribution and use as power.

Env-Sw 1503.17 Cement Kiln Dust. Cement kiln dust shall be deemed certified for distribution and use as an odor control agent for sludge and septage, as provided in Env-Ws 800 and Env-Ws 1600.

PART Env-Sw 1504 CRITERIA FOR CERTIFICATION

Env-Sw 1504.01 Purpose. The purpose of the rules in this part is to establish the criteria for certifying a waste-derived product for distribution and use pursuant to an application filed in accordance with Env-Sw 1505.

Env-Sw 1504.02 Applicability. The criteria in this part shall apply to having a waste-derived product certified for distribution and use pursuant to the application provisions in Env-Sw 1505.

Env-Sw 1504.03 Certification Criteria. Applicants seeking to have a waste-derived product certified for distribution and use shall demonstrate in the application filed pursuant to Env-Sw 1505 that the overall benefit(s) derived for society from production and use of the product shall exceed the benefit(s) of not producing and using the product, based on the criteria specified in Env-Sw 1504.04 through Env-Sw 1504.06.

Env-Sw 1504.04 Need. The applicant shall demonstrate a need for the waste-derived product based on the following criteria:

- (a) The waste-derived product shall either:
 - (1) Be comparable in form and function to an existing product in the market place which is not derived from waste, and shall perform as effectively or more effectively than the existing product; or
 - (2) Satisfy an identifiable and unfulfilled need in society without violating the universal environmental performance standards in Env-Sw 1002;
- (b) There shall be an identifiable user or buyer for the waste-derived product; and
- (c) Waste derived products used for agronomic purposes shall provide an identifiable benefit(s) to the sites to which it is land applied.

Env-Sw 1504.05 Product Quality and Quality Control. The applicant shall demonstrate that the production process meets the following requirements:

- (a) Production of the waste-derived product shall not:
 - (1) Cause a violation of any requirement in Env-Sw 1000; or
 - (2) Pose a greater risk to the environment, public health and safety than does the production of an existing comparable non-waste-derived product or, if no comparable non-waste-derived product exists, by directly disposing of the waste in accordance with the solid waste rules;
- (b) The physical and analytical characteristics of the waste used to produce the product shall be defined in a written specification;
- (c) The physical and analytical characteristics of the waste-derived product shall be defined in a written specification; and
- (d) The production process shall include quality assurance/quality control procedures to assure the defined specifications shall be met through the production process.

Env-Sw 1504.06 Impact on Society. The applicant shall demonstrate that use of the waste-derived product in society shall have a minimal net impact based on the following requirements:

- (a) Use of the waste-derived product as intended shall not:
 - (1) Cause a violation of any requirement in Env-Sw 1000; or
 - (2) Pose a greater risk to the environment, public health and safety than does the use of an existing comparable non-waste-derived product or, if no comparable non-waste-derived product exists, by disposing of the waste in accordance with the solid waste rules; and
- (b) Disposal of the waste-derived product shall not pose a greater risk to the environment, public health and safety than would be posed by directly disposing of the waste from which the product is produced.

PART Env-Sw 1505 APPLICATION REQUIREMENTS

Env-Sw 1505.01 Applicability.

(a) Except as specified by (b) and (c) below, the rules in this part shall apply to any person seeking to have a waste-derived product certified for distribution and use.

(b) The rules in this part shall not apply to waste-derived products already certified for distribution and use, as listed by the department pursuant to Env-Sw 1509.

(c) For a proprietary waste-derived product, the rules in this part shall apply only to the person having proprietary control of the product.

Env-Sw 1505.02 Application Content and Format. An application to certify a waste-derived product for distribution and use shall include the information specified in Env-Sw 1505.03 through Env-Sw 1505.09, compiled in the order shown.

Env-Sw 1505.03 Applicant Identification. The applicant shall provide the following information to identify the applicant:

- (a) If an individual, name, mailing address and telephone number;
- (b) If other than an individual:
 - (1) The information specified in RSA 149-M:10, I(b); and
 - (2) The name, title, mailing address and telephone number of the individual designated by the applicant to be the contact individual for matters concerning the application; and
- (c) A statement identifying the applicant's interest in having the waste-derived product certified, including any of the following as applicable:
 - (1) The applicant produces or intends to produce the waste-derived product;
 - (2) The applicant distributes or intends to distribute the waste-derived product to users or other distributors;
 - (3) The applicant generates or intends to generate the waste used to produce the waste-derived product;
 - (4) The applicant collects or intends to collect from generators or others, the waste used to produce the waste-derived product; or
 - (5) The applicant uses or intends to use the waste-derived product.

Env-Sw 1505.04 Product Identification and General Description. The applicant shall provide the following information to identify and describe in general terms the subject waste-derived product:

- (a) Product name, including:
 - (1) A common name which denotes the general purpose of the product, such as "aggregate," "driveway sealer," "glue," or "absorbent"; and
 - (2) A trade name, if applicable;
- (b) General product description, including:

- (1) Purpose(s) for which the product will be used; and
- (2) Physical appearance of the product, distinguishing characteristics, and waste and other material content;
- (c) Identification of a comparable existing non-waste-derived product(s), if any, by common name and trade name if applicable; and
- (d) A statement identifying the reason(s) why the applicant believes the waste-derived product is not yet certified for distribution and use, including a brief description of the product characteristic(s) or other factors used by the applicant to rule out a determination that the product is already certified by either of the following 2 mechanisms:
 - (1) By rule pursuant to Env-Sw 1503; and
 - (2) By department approval of a previously filed application, as determined by the certified waste-derived product listing compiled, maintained and distributed by the department pursuant to Env-Sw 1508.

Env-Sw 1505.05 Manufacturer Identification. The applicant shall provide the following information to identify the manufacturer(s) of the waste-derived product:

- (a) A statement identifying whether the waste-derived product is a proprietary product;
- (b) If the waste-derived product is proprietary, identification of the person(s) having proprietary control of the product, including:
 - (1) For an individual, the individual's name, date of birth, mailing address and telephone number; and
 - (2) For other than an individual:
 - a. The information specified in RSA 149-M:10, I(b); and
 - b. The name, title, mailing address and telephone number of the person designated by the applicant to be the contact person for matters concerning the application; and
- (c) If the waste-derived product is non-proprietary, the name(s) and location(s) of all existing manufacturers and potential manufacturers known to the applicant, including the applicant if applicable.

Env-Sw 1505.06 Production. The applicant shall provide the following information to describe the production process:

- (a) Identification and characterization of the waste(s) used to produce the waste-derived product, including:
 - (1) A brief description of its physical appearance and physical state, including whether the waste is a solid, liquid or gas;
 - (2) A description of other distinguishing characteristics, including characteristics which have the potential to create a nuisance or adversely effect the environment, public health and safety, such as odor, dust, fire, explosion, respiratory hazards including the potential for dust or fumes,

and dermal contact hazards for instance chemical burns to skin;

- (3) Documentation and materials detailing the general quality of the waste including:
 - a. Physical, chemical and, where appropriate, biological characteristics of the waste based on current and representative sampling or equivalent documentation and including analytical test results for those constituents that are reasonably thought to be present in the waste and which are known or suspected, by way of published scientific documentation, to pose a potential risk to human health or the environment;
 - b. Material safety data sheets for the waste and constituents of the waste, if published pursuant to regulations adopted to implement 29 U.S.C. 651 et seq., the Occupational Safety and Health Act (OSHA); and
 - c. Samples of the waste, if requested by the department to either enhance the department's understanding of the appearance and characteristics of the waste, or to verify the applicant's analytical test results in instances where the waste has the potential to contain constituents harmful to human health or the environment;
- (4) Source(s) of the waste, including:
 - a. A description of the process by which the waste is generated; and
 - b. Identification of all generators known to the applicant, including name(s) and location(s); and
- (5) Estimated quantity of waste generated annually in New Hampshire; and
- (b) A detailed description of the process by which the waste-derived product is or will be produced, including:

- (1) Product specifications, establishing:
 - a. Material and waste content;
 - b. Acceptance limits for material and waste constituents, using physical, chemical and biological parameters as appropriate to the type(s) of material(s) and type(s) of waste being used to produce the waste-derived product; and
 - c. Other factors, as necessary to identify the minimum standards the waste-derived product shall meet prior to being released by the manufacturer for distribution and use;
- (2) Narrative description of the process, from beginning to end, including a description of:
 - a. Any processing or treatment applied to the waste prior to producing the waste-derived product;
 - b. Industrial or manufacturing practices or technologies used to produce the waste-derived product; and
 - c. Residual and bypass waste management practices;
- (3) Process flow diagrams and schematic diagrams as appropriate, depicting the process

described pursuant to (2) above; and

(4) Product quality assurance/quality control procedures used to affirm the waste-derived product meets the standards specified pursuant to (1) above.

Env-Sw 1505.07 Use, Distribution and Markets. The applicant shall provide the following information to describe how the waste-derived product will be distributed and used and to identify markets:

- (a) Description of all intended uses of the product;
- (b) Potential hazards to the environment, public health and safety resultant from product use as intended;
- (c) Description of specific product use and disposal restrictions essential to assuring no increased risk to the environment, public health and safety resultant from use and disposal of the product;
- (d) A demonstration of the existence or reasonable expectation of the existence of a market for the waste-derived product, based on the following:
 - (1) A comparison of the characteristics and specifications of the waste-derived product or material and the required market characteristics and specifications of the product or material;
 - (2) The benefit that will be achieved by use of the waste-derived product; and
 - (3) Information to document existing use of the same or similar waste-derived product or a contract to purchase the waste-derived product, or both;
- (e) Estimated market value of the waste-derived product, in dollars; and
- (f) Description of how the waste-derived product will be distributed for use.

Env-Sw 1505.08 Demonstration of Criteria. Using the information provided pursuant to Env-Sw 1505.03 through Env-Sw 1505.07, the applicant shall provide a written assessment demonstrating how each of the criteria for certification in Env-Sw 1504.04 through Env-Sw 1504.06 shall be met by the production, distribution and use of the waste-derived product.

Env-Sw 1505.09 Signature and Certification of Application Information.

- (a) Each application shall be signed by the applicant.
- (b) If the applicant is other than an individual, the application shall be signed by the person(s) so authorized by the applicant.
- (c) The signature shall constitute an affirmation that the material and information submitted is correct and complete to the best of his/her knowledge and belief.

PART Env-Sw 1506 APPLICATION FILING

Env-Sw 1506.01 Application Filing.

- (a) Applications shall be prepared:
 - (1) On and with such forms as the department provides; or

(2) If no form shall be provided pursuant to (1) above, on paper supplied by the applicant in a format consistent with the application content and format requirements specified in Env-Sw 1505.

(b) Applications to certify a waste-derived product for distribution and use shall be filed with the department in triplicate.

(c) Each copy of the application filed with the department shall bear an original signature pursuant to Env-Sw 1505.09.

PART Env-Sw 1507 APPLICATION REVIEW

Env-Sw 1507.01 Application Receipt.

(a) Upon receipt of an application, the department shall determine whether the filing requirements in Env-Sw 1506 have been met.

(b) Applications filed contrary to Env-Sw 1506 shall not be processed by the department, but shall be held by the department while the applicant is notified of the deficiency and given an opportunity to correct the deficiency.

(c) If, after notice pursuant to (b) above, the applicant fails to correct the deficiency within 10 working days or within another mutually-agreed time, the department shall return the application as filed, with a written explanation as to the reason(s) for returning the application.

Env-Sw 1507.02 Application Completeness Determination.

(a) Within 60 days after the date an application is filed in accordance with Env-Sw 1506, the department shall determine whether the application is complete.

(b) If the applicant submits any information to complete the application between the date of initial filing and the date the application is deemed complete, the 60-day review time shall be measured from the date of latest submittal.

Env-Sw 1507.03 Incomplete Applications.

(a) If the application is incomplete, the applicant shall be so notified in writing as specified by (b) below.

(b) Notice given pursuant to (a) above shall:

- (1) Identify the applicant, type of application and all documents that constitute the incomplete application;
- (2) Identify the deficiencies;
- (3) Provide instructions for completing the application;
- (4) Provide the name, title, mailing address and telephone number of the agency official or employee who may be contacted regarding the application; and
- (5) Alert the applicant to the application dormancy provisions in (g) and (h) below.

(c) In the event that an incomplete application provides information sufficient for the department to determine that the criteria for issuance shall not be met, the department shall deny the requested approval and send written notice thereof in accordance with Env-Sw 1507.05, in lieu of deeming the application incomplete.

(d) If an application is incomplete for incidental and not substantive reasons, the department shall so notify the applicant by telephone in lieu of providing a written notice of incompleteness, provided:

- (1) The anticipated time required for the applicant to correct the deficiency is less than the anticipated time required for the department to notify the applicant in writing; and
- (2) The department specifies in the verbal notice a reasonable time period, determined in consultation with the applicant, for correcting the deficiency, after which written notice will be sent by the department in accordance with (b) above if the applicant has failed to respond within the specified time.

(e) Upon notifying an applicant that the application is incomplete, the department shall suspend further processing of the application pending receipt of the additional information required.

(f) No portion of the time between the date a notice of incompleteness is provided and the date the applicant responds shall be included in computing the time limits for processing the application.

(g) The applicant shall submit all information required to complete an incomplete application within one year from the date the application is initially deemed incomplete.

(h) An incomplete application that becomes a dormant application as defined by Env-Sw 102 shall be deemed denied without further action by the department.

Env-Sw 1507.04 Complete Applications. A complete application shall undergo a technical review by the department pursuant to the criteria for certification specified in Env-Sw 1504.

Env-Sw 1507.05 Application Decision.

(a) If the criteria for certification in Env-Sw 1504 are met, the department shall certify the waste-derived product for distribution and use, subject to terms and conditions, by:

- (1) Placing the waste-derived product on the list pursuant to Env-Sw 1508; and
- (2) Notifying the applicant in writing.

(b) If the criteria for certification in Env-Sw 1504 are not met, the department shall deny the requested approval and so notify the applicant in writing.

(c) The notice of denial shall:

- (1) Identify the applicant, type of application and all documents that constitute the complete application or, if the decision for denial is made without a complete application pursuant to Env-Sw 1505, all documents submitted by the applicant that form the basis of the decision;
- (2) State the specific reasons for the denial;
- (3) Provide the name, title, mailing address and telephone number of the department official

or employee who may be contacted regarding the application and denial;

- (4) Identify the applicable provisions for appeal pursuant to RSA 21-O:9, V; and
- (5) Be signed by the director or department employee so authorized by the director.

PART Env-Sw 1508 LIST OF CERTIFIED WASTE-DERIVED PRODUCTS

Env-Sw 1508.01 Purpose.

(a) The purpose of the rules in this part is to describe the procedures by which the department shall compile, maintain and distribute a list of all certified waste-derived products.

(b) The purpose for compiling, maintaining and distributing the list as identified in (a) above shall be to provide current information to the public concerning the identity and status of waste-derived products.

Env-Sw 1508.02 Applicability. The rules in this part shall specify the procedures by which the department shall compile, maintain and distribute a list of waste-derived products certified for distribution and use pursuant to this chapter.

Env-Sw 1508.03 Compilation and Maintenance of List.

(a) All waste-derived products certified by rule as specified in Env-Sw 1503 shall be placed on a list for public distribution pursuant to Env-Sw 1508.04.

(b) Any waste which was certified for reuse under the provisions of Env-Wm 318 in effect prior to and repealed on October 29, 1997 that continues to be generated pursuant to the original certification shall be deemed certified for distribution and use pursuant to this chapter and accordingly placed on the list, provided that the waste is a waste-derived product and not a processed recyclable material not yet made into a product.

(c) Each time the department certifies a new waste-derived product by approving an application for certification pursuant to Env-Sw 1505, the department shall add the new certified waste-derived product to the list identified in (a) above.

(d) The information on the list shall include:

- (1) Product identification, including:
 - a. Common name;
 - b. Trade name, if any; and
 - c. Description, including waste content;
- (2) Identification of the person having proprietary control of the product, if any;
- (3) Authorized uses and restricted uses;
- (4) Date of certification; and
- (5) Reference to all documents which constituted the complete application.

Env-Sw 1508.04 Distribution of List. The list identified in Env-Sw 1508.03 shall be available for

public distribution, at no charge, following either a written or verbal request.

PART Env-Sw 1509 REVOCATION AND SUSPENSION OF CERTIFICATION

Env-Sw 1509.01 Applicability. The rules in this part shall apply to actions by the department to revoke or suspend certifications issued pursuant to Env-Sw 1507.05.

Env-Sw 1509.02 Procedure.

(a) Revocation or suspension of certification shall proceed in accordance with RSA 541-A:30 and this part.

(b) Prior to making a decision to revoke or suspend certification, the department shall hold an adjudicative hearing in accordance with the provisions of Env-C 200 that apply to adjudicative proceedings.

(c) A written notice of hearing shall be provided to the general public by publication in a statewide newspaper and to persons the department knows to have a direct interest in the product, including product manufacturers, distributors and waste generators.

(d) The hearing notice shall identify:

- (1) The product;
- (2) The action the department proposes to take;
- (3) The reason(s) for the proposed action;
- (4) The department's authority for taking such action;
- (5) The date, time and place for the hearing; and
- (6) The name, title, mailing address and telephone number of the department official or employee who may be contacted regarding the notice.

(e) Certification shall be revoked if the department determines, following the procedures in RSA 541-A:30, that:

- (1) Good cause as provided in Env-Sw 1509.03 exists; and
- (2) There are no circumstances by which the underlying problem can be corrected or eliminated for the product and certification in question.

(f) Subject to (g) below, certification shall be suspended if the department determines, following the procedures in RSA 541-A:30, that:

- (1) Good cause as provided in Env-Sw 1509.03 exists; and
- (2) Given time to do so, there are circumstances by which the underlying problem can be corrected or eliminated, thereafter allowing the certification to be reinstated as originally issued.

(g) Written notice of the department's decision shall be provided to the public, all other persons receiving notice of the hearing pursuant to (c) above and all hearing participants.

(h) Upon revocation or suspension of certification, the department shall remove the waste-derived product from the list maintained pursuant to Env-Sw 1508.

Env-Sw 1509.03 Good Cause. The following shall provide good cause to revoke or suspend certification:

(a) The certification was issued based on false, incomplete or misleading information which, if known at the time the application was being processed, would have prohibited issuance of the certification based on the criteria for certification in Env-Sw 1504;

(b) New information, not available to the department prior to issuance of the certification, becomes available and shows that the waste-derived product does not in fact meet the criteria for certification in Env-Sw 1504;

(c) For a proprietary product, the proprietor meets the criteria for permit denial pursuant to RSA 149-M:9, IX; or

(d) For a proprietary product, the facility producing the product is not in compliance with the solid waste rules and the terms and conditions for facility operation or closure as provided in the facility permit or permit exemption as the case may be.

CHAPTER Env-Sw 1600 SOLID WASTE FACILITY OPERATOR TRAINING AND CERTIFICATION

Statutory Authority: RSA 149-M:7

PART Env-Sw 1601 PURPOSE AND APPLICABILITY

Env-Sw 1601.01 Purpose. The purpose of the rules in this chapter is to implement a solid waste facility operator training and certification program, pursuant to RSA 149-M:6, XIII and RSA 149-M:9, VI, to assure that:

(a) Solid waste facility operators are qualified to operate and maintain solid waste facilities properly; and

(b) Solid waste facilities are operated at the highest attainable level of safety and efficiency thereby providing the greatest possible protection to the environment and to public health.

Env-Sw 1601.02 Applicability. The rules in this chapter shall apply to all individuals who operate facilities except individuals who operate a level I facility as defined by Env-Sw 1602.05.

PART Env-Sw 1602 DEFINITIONS

Env-Sw 1602.01 “Class I incinerator” means a device engineered to burn solid waste for volume reduction under controlled conditions.

Env-Sw 1602.02 “Class II incinerator” means a device engineered to burn solid waste for volume reduction under controlled conditions that recovers energy as a by-product.

Env-Sw 1602.03 “Class III incinerator” means a device engineered to burn infectious waste.

Env-Sw 1602.04 “Interim operator certification” means certification temporarily provided to an operator prior to obtaining certification by completing operator training and certification pursuant to Env-Sw 1603.05.

Env-Sw 1602.05 “Level I facility” means any of the following:

- (a) A permit-exempt facility;
- (b) A permit-by-notification facility having an active life of 90 days or less;
- (c) An emergency permit facility; and
- (d) A research and development permit facility.

Env-Sw 1602.06 “Level II facility” means a facility that is not a level I facility and is a monofill for only brush and stumps.

Env-Sw 1602.07 “Level III facility” means a facility that is not a level I facility and is any of the following:

- (a) A landfill that is permitted to receive 30 tons or less per day of waste on average annually;
- (b) A monofill that only receives scrap metal, construction and demolition debris or asbestos;
- (c) A transfer station, a recycling facility, or a composting facility which receives 30 tons or less of waste per day on average annually; or
- (d) A Class I incinerator.

Env-Sw 1602.08 “Level IV facility” means a facility that is not a level I facility and is:

- (a) A landfill which has a liner system;
- (b) A landfill which is permitted to accept more than 30 tons per day of waste on average annually;
- (c) An ash landfill;
- (d) A transfer station, a recycling facility or composting facility permitted to accept more than 30 tons of waste per day on average annually; or
- (e) A Class II or Class III incinerator.

Env-Sw 1602.09 “Operator training program” means professional or technical instruction, provided or sponsored by the department, which supplies the amount of solid waste management information required to pass an examination and obtain certification pursuant to Env-Sw 1603.05.

Env-Sw 1602.10 “Operator training update program” means an operator training program, provided or sponsored by the department, which supplies information and instruction to certified operators seeking certification renewal, said information and instruction being of a nature that refreshes and adds to the operator’s existing solid waste management knowledge.

Env-Sw 1602.11 “Responsible charge” means accountability for and performance of active daily on-site operation of a solid waste facility.

Env-Sw 1602.12 “Solid waste facility operator” or “operator” means an individual who is directly involved in solid waste management activities at a facility.

Env-Sw 1602.13 “Solid waste facility operator certification” means the status granted to a solid waste facility operator who demonstrates competency in his/her chosen occupation in accordance with the provisions of Env-Sw 1603. The term includes “operator certification.”

PART Env-Sw 1603 PROVISIONS FOR OPERATOR CERTIFICATION

Env-Sw 1603.01 Operator Certification Required. Except as noted in Env-Sw 1601.02, all solid waste facility operators shall be certified by the department for the level of his/her responsibilities as specified by Env-Sw 1603.02.

Env-Sw 1603.02 Levels of Operator Certification. Operator certification shall be granted by level based on a range of responsibilities and duties as follows:

- (a) A certified level IV operator/manager shall be considered qualified to be in responsible charge at a level IV, III, II or I facility and may assume supervisory responsibilities pursuant to Env-Sw 1005.07(b)(2);
- (b) A certified level III advanced operator shall be considered qualified to be in responsible charge at a level III, II or I facility and may assume supervisory responsibilities pursuant to Env-Sw 1005.07(b)(2);
- (c) A level II certified operator shall be considered qualified to be in responsible charge at a level II or I facility but shall not assume supervisory responsibilities pursuant to Env-Sw 1005.07(b)(2); and
- (d) A certified level I attendant and a level I attendant-in-training may work at, but not be in responsible charge at any solid waste facility.

Env-Sw 1603.03 General Provisions for Obtaining Operator Certification.

- (a) An individual shall obtain operator certification for a specified level of operator, by:
 - (1) Attending the department’s operator training program and passing an examination applicable to the level of certification sought, pursuant to Env-Sw 1603.05; or
 - (2) Receiving reciprocity pursuant to Env-Sw 1603.06.
- (b) Prior to obtaining certification pursuant to either Env-Sw 1603.05 or Env-Sw 1603.06, interim operator certification for a specified level of operator shall be granted to a person pursuant to Env-Sw 1603.04.
- (c) Certification shall be effective for one year from the date of issuance.
- (d) Expiring operator certification shall be renewed pursuant to Env-Sw 1606.01.
- (e) An individual may upgrade his/her operator certification to a higher level of operator by attending the operator training program and passing the examination applicable to the higher level.

Env-Sw 1603.04 Interim Operator Certification.

- (a) Interim operator certification shall be automatically granted to applicants who are approved, in accordance with Env-Sw 1604.02(c)(2), to attend operator training.
- (b) Interim operator certification shall be granted for the level of operator that formed the basis of

the approved application.

(c) Interim operator certification shall be effective from the date an approved application is filed to the date that the applicant either obtains operator certification pursuant to Env-Sw 1603.05 or fails to attend operator training or take a required examination as scheduled, whichever is earlier.

Env-Sw 1603.05 Operator Certification by Training and Examination.

(a) On a semi-annual basis, the department shall administer an operator training program and written examination for operator certification.

(b) The written examination shall be structured to test the applicant's knowledge of the field of solid waste management for the level of certification sought.

(c) Individuals who wish to attend an operator training program and take the examination shall file an application pursuant to Env-Sw 1604.01.

(d) The application shall be processed in accordance with Env-Sw 1604.02.

(e) The examinations shall be graded on a pass/fail basis, with the passing score being 70% correct.

(f) An individual who attends an operator training program and passes the examination shall be certified for the level of operator for which the examination was specified.

(g) Operator certificates obtained by training and examination shall:

- (1) Be issued in writing;
- (2) Be effective for a period of one year from the date of issuance; and
- (3) Be subject to renewal pursuant to the provisions of Env-Sw 1606.01.

(h) An individual who fails the certification examination may retake the examination, at any time convenient to both the applicant and the department and as often as necessary to obtain operator certification. However, after 2 unsuccessful attempts the applicant shall re-attend the operator training program prior to re-taking the examination.

(i) Each application for repeat operator training shall be made in accordance with Env-Sw 1604, except no fee shall be required.

Env-Sw 1603.06 Operator Certification by Reciprocity.

(a) An individual who has the following credentials shall be eligible for operator certification by reciprocity:

- (1) The individual holds operator certification through private industry or another state which was issued based on a training and examination program comparable in scope to the operator training and certification program provided by the department;
- (2) The individual has successfully completed training by the manufacturer of a specific type of facility for which the department does not offer training; or
- (3) For incineration facilities, the individual is certified pursuant to the American Society for

Mechanical Engineers' "Standard for the Qualification and Certification of Resource Recovery Facility".

(b) An applicant for reciprocity pursuant to (a) above shall submit an application as specified in Env-Sw 1604.01.

(c) If the director determines that the applicant has the credentials for certification by reciprocity as specified in (a) above and meets all other certification requirements, the director shall issue operator certification.

(d) Operator certificates obtained by reciprocity shall:

- (1) Be issued in writing;
- (2) Be effective for a period of one year from the date of issuance; and
- (3) Be subject to renewal pursuant to the provisions of Env-Sw 1606.01.

PART Env-Sw 1604 APPLICATION REQUIREMENTS

Env-Sw 1604.01 Application Content and Format.

(a) An individual who wishes to obtain operator certification shall file a written application which includes the following information on and with such forms provided by the department:

- (1) Applicant's name, residential mailing address and telephone number;
- (2) Level of operator certification for which the application is being made, as specified in Env-Sw 1603;
- (3) Proof of qualifications for the desired level of operator certification based on the minimum qualifications specified in Env-Sw 1605, including the following:

a. Amount and type of applicable work experience related to or in the field of solid waste management, including for each facility where the applicant has been employed and the facility where the applicant is currently employed, if applicable:

1. Facility name and address;
2. Type of facility;
3. Name and title of supervisor;
4. Applicant's title;
5. Description of duties; and
6. Dates of employment; and

b. If education is being substituted for experience pursuant to Env-Sw 1605.02, a statement to identify the level of secondary and post-secondary education attained, with a letter from the registrar certifying college education;

- (4) For applications to become certified by reciprocity pursuant to Env-Sw 1603.06:
 - a. Copies of all currently valid operator certifications applicable to solid waste management;
 - b. The name and mailing address of the certifying agency or company;
 - c. A statement identifying whether the applicant obtained the operator certification(s) in b. above by exam; and
- (5) A signed statement by the applicant attesting to the truth and accuracy of the information provided in the application.

Env-Sw 1604.02 Application Filing and Processing.

- (a) The applicant shall submit a \$50.00 fee with his/her application for operator certification.
- (b) The fee, if paid by check or money order, shall be made payable to “Treasurer, State of New Hampshire.”
- (c) Applications for operator training and examination shall be processed by the department as follows:
 - (1) The department shall review the application to determine whether all required information is submitted and whether the applicant meets the minimum qualifications required for the level of operator certification sought, as specified in Env-Sw 1605.01;
 - (2) If the application is complete and the minimum qualifications are met, the department shall approve the application, schedule the applicant to attend the next available operator training program and grant the applicant interim certification pursuant to Env-Sw 1603.04;
 - (3) If the application is incomplete, the applicant shall be so notified in writing and provided the opportunity to correct the deficiencies;
 - (4) If the information provided in the application does not demonstrate that the applicant meets the minimum qualifications for operator certification, the applicant shall be so notified in writing and provided the opportunity to submit additional information to demonstrate the minimum qualifications are met or to revise the application for a level of operator certification that is compatible with the applicant’s qualifications; and
 - (5) If an applicant fails to meet the minimum qualifications for operator certification:
 - a. The application shall be denied, meaning the applicant shall not be scheduled to attend operator training;
 - b. Interim operator certification shall not be granted; and
 - c. The applicant shall be so notified in writing with the reasons for denial stated.
- (d) Applications for reciprocity shall be processed by the department as follows:
 - (1) The department shall review the application to determine whether all required information is submitted and whether the applicant meets the minimum qualifications required for the level

of operator certification sought, as specified in Env-Sw 1605.01;

- (2) If the application is complete and the minimum qualifications are met, the director shall determine whether the applicant has the credentials for reciprocity as specified in Env-Sw 1603.06(a);
- (3) If the director determines that the applicant has the credentials for certification by reciprocity as specified in (a) above and meets all other certification requirements, the director shall issue operator certification;
- (4) If the application is incomplete, the applicant shall be so notified in writing and provided the opportunity to correct the deficiencies;
- (5) If the information provided in the application does not demonstrate that the applicant meets the minimum qualifications for operator certification, the applicant shall be so notified in writing and provided the opportunity to submit additional information to demonstrate the minimum qualifications are met or to revise the application for a level of operator certification that is compatible with the applicant's qualifications; and
- (6) If the applicant fails to meet the minimum qualifications for operator certification or does not have the credentials for reciprocity:
 - a. Operator certification shall not be granted;
 - b. The applicant shall be so notified in writing with the reasons for denial stated; and
 - c. The applicant shall have the opportunity to obtain certification by training and examination.

PART Env-Sw 1605 MINIMUM QUALIFICATIONS

Env-Sw 1605.01 Minimum Qualifications for Operator Certification. The following qualifications shall apply to all candidates for operator certification, whether by reciprocity or by training and examination:

- (a) All levels of operators, except a level I attendant-in-training, shall be able to communicate in English; and
- (b) Subject to Env-Sw 1605.02, the following education and experience credentials shall apply:
 - (1) A level IV operator/manager shall:
 - a. Hold a high school diploma or general educational development credential (GED); and
 - b. Have a minimum of 5 years of experience in a field related to waste management;
 - (2) A level III advanced operator shall:
 - a. Hold a high school diploma or GED; and
 - b. Have a minimum of 3 years of experience in a field related to waste management;
 - (3) A level II operator shall:

- a. Have completed the eighth grade; and
 - b. Have a minimum of 2 years of experience in a field related to waste management;
- (4) A level I attendant shall have one year of experience in a field related to waste management; and
- (5) A level I attendant-in-training shall require no experience.

Env-Sw 1605.02 Substitutions to Operator Qualifications.

- (a) By request of the applicant to the director, the following substitutions shall be made to the requirements of Env-Sw 1605.01, subject to the limitations identified in (c) below:
- (1) One year of college education may be substituted for one year experience, up to a maximum of 4 years for level IV operators, 2 years for level III operators and one year for level II operators; and
 - (2) One year of experience may be substituted for one year of elementary or high school up to a maximum of one year.
- (b) High school education shall not be substituted for experience.
- (c) Education applied toward experience shall not also be applied toward the education requirement.

PART Env-Sw 1606 OPERATOR CERTIFICATION RENEWAL

Env-Sw 1606.01 Operator Certification Renewal Requirements.

- (a) Any individual seeking operator certification renewal for the same level of operator shall:
- (1) Comply with Env-Sw 1606.02; and
 - (2) Submit a written application for renewal pursuant to Env-Sw 1606.03 and Env-Sw 1606.04.
- (b) Any individual seeking operator certification renewal for a higher level of operator shall file an application pursuant to Env-Sw 1604 to attend operator training and take the applicable level of examination.

Env-Sw 1606.02 Continuing Education Requirements. Each applicant for renewal shall participate in an operator training update program prior to filing the application for operator certification renewal.

Env-Sw 1606.03 Renewal Applications.

- (a) The application for operator certification renewal shall be submitted on and with such forms as provided by the department.
- (b) The application shall include the following:
- (1) Applicant's name, residential mailing address and telephone number;

- (2) Identification of certification currently held, by certificate number, level of operator and date of issuance;
- (3) Name, mailing address, permit number and telephone number of the facility(s) where the applicant is currently employed;
- (4) The name and title of the applicant's supervisor or the facility manager;
- (5) The applicant's current title or position, including a brief description of the duties required of the position;
- (6) If the applicant's current operator certification was issued pursuant to the provisions for reciprocity in Env-Sw 1603.06 and the applicant has changed jobs since the issue date of the current operator certification, information to demonstrate that the provisions for reciprocity remain applicable to the applicant's current job duties;
- (7) Proof that the applicant has attended an approved operator training update program since the issue date of the applicant's current operator certification, as required by Env-Sw 1606.03; and
- (8) A signed statement by the applicant attesting to the truth and accuracy of the information provided in the application.

Env-Sw 1606.04 Application Filing and Processing.

- (a) An application for renewal of operator certification pursuant to Env-Sw 1606.01(a) shall be filed within the time frame specified by (b) below.
- (b) To assure issuance of renewal before the applicant's current operator certification expires and to assure each renewal application contains current information, the application shall be submitted not less than 15 days nor more than 90 days before the expiration date of the applicant's current operator certification.
- (c) The application shall be processed by the department in accordance with Env-Sw 1604.02, except:
 - (1) Applications received more than 90 days before the expiration date the applicant's current operator certification shall be returned to the applicant for resubmittal within the time frame specified by (b) above; and
 - (2) For applications received less than 15 days before the expiration date of the applicant's current operator certification, there shall be no guarantee of renewal prior to the expiration date of the current certification, and the provisions of RSA 541-A:30 shall apply.
- (d) The operator applying for renewal shall submit, with the renewal application:
 - (1) A fee of \$50.00 if the application is received prior to the expiration of the certification; or
 - (2) A fee of \$75.00 if the application is received after certification has expired.
- (e) Renewal fees, if paid by check or money order, shall be made payable to "Treasurer, State of New Hampshire."

Env-Sw 1606.05 Renewal.

(a) The department shall renew an applicant's operator certification and provide written notice thereof to the applicant provided that:

- (1) The application for renewal of operator certification contains all of the information required by Env-Sw 1606.03;
 - (2) The applicant has complied with Env-Sw 1606.02;
 - (3) The applicant has carried out his/her operator duties in accordance with the solid waste rules and the facility's permit; and
 - (4) If renewal is for certification originally obtained by reciprocity, the applicant's current job duties remain within the scope of the provisions for reciprocity.
- (b) Renewal of operator certification shall be for the same level of operator.
- (c) Operator certification renewal shall:
- (1) Be issued in writing;
 - (2) Be effective for a period of one year from the date of issuance; and
 - (3) Be subject to renewal pursuant to the provisions of this part.
- (d) If the applicant fails to meet the criteria for renewal as provided in (a) above, the applicant shall be so notified in writing.

PART Env-Sw 1607 REVOCATION AND SUSPENSION

Env-Sw 1607.01 Applicability. The rules in this part shall apply to actions by the department to revoke or suspend an operator's certification.

Env-Sw 1607.02 Procedure.

(a) Revocation or suspension of an operator's certification shall proceed in accordance with RSA 541-A:30.

(b) Certification shall be revoked if the department determines, following the procedures in RSA 541-A:30, that:

- (1) Good cause as provided in Env-Sw 1607.03 exists; and
- (2) There are no circumstances by which the operator can correct or eliminate the underlying problem.

(c) Certification shall be suspended if the department determines, following the procedures in RSA 541-A:30, that:

- (1) Good cause as provided in Env-Sw 1607.03 exists; and

- (2) Given time to do so, the operator can correct the underlying problem and be qualified to again hold certification for the same level in compliance with the requirements in this chapter.

Env-Sw 1607.03 Good Cause. The following shall provide good cause to suspend or revoke operator certification:

- (a) The operator obtained certification through fraud, deceit or falsification, including:
 - (1) Submission of false or misleading information in the application;
 - (2) Cheating on the examination; and
 - (3) Falsifying attendance at operator training or update training;
- (b) In the performance of her/his duties, the operator has knowingly violated the solid waste rules, conditions of a facility permit, or other rules or permits related to programs administered by the department; or
- (c) The operator has failed to comply with an order of the department.

CHAPTER Env-Sw 1700 REQUIREMENTS FOR LAND APPLICATION OF WOOD ASH

Statutory Authority: RSA 149-M:7

PART Env-Sw 1701 PURPOSE AND APPLICABILITY

Env-Sw 1701.01 Purpose. The purpose of the rules in this chapter is to establish criteria and procedures by which ash generated from the combustion of clean wood shall be certified for distribution and beneficial use in agricultural land applications.

Env-Sw 1701.02 Applicability.

- (a) Except as provided in (b) below, the rules in this chapter shall apply to any person distributing and using wood ash for agricultural land application in New Hampshire.
- (b) The rules in this chapter shall not apply to persons using wood ash from their household wood stove(s) for agricultural land application in New Hampshire.

PART Env-Sw 1702 LAND APPLICATION REQUIREMENTS

Env-Sw 1702.01 Certification Required. No person shall distribute, receive, store or use ash for land application in New Hampshire unless:

- (a) The ash is certified for distribution and use in accordance with this chapter;
- (b) The ash is actively managed; and
- (c) The ash is used in accordance with the provisions of the certification.

Env-Sw 1702.02 Status of Certified Wood Ash. Wood ash certified pursuant to this chapter shall be approved for distribution to and receipt, storage and use by the permit-exempt land application facilities identified in Env-Sw 1704 only.

Env-Sw 1702.03 General Provisions for Obtaining Certification.

(a) The generator of wood ash to be land applied shall obtain the required certification by filing an application pursuant to Env-Sw 1705.

(b) The applicant shall demonstrate in the application that the wood ash meets the criteria for land application in Env-Sw 1703.

(c) The generator shall, as a condition of the certification, continually monitor the quality of the ash in accordance with Env-Sw 1706, unless certified on a one-time basis.

PART Env-Sw 1703 CRITERIA FOR LAND APPLICATION

Env-Sw 1703.01 Source.

(a) Only ash generated from the combustion of clean wood shall be land applied.

(b) Ash generated from the combustion of wood containing any of the following materials or substances shall not be land applied:

- (1) Paints;
- (2) Stains;
- (3) Preservatives; and
- (4) Other materials or substances not naturally occurring in wood.

Env-Sw 1703.02 Quality. Wood ash that is land applied shall:

(a) Not contain heavy metals in excess of the following concentrations, as determined on a dry weight basis:

- (1) For arsenic, 41 milligrams per kilogram (mg/kg);
- (2) For cadmium, 39 mg/kg;
- (3) For chromium, 1200 mg/kg;
- (4) For copper, 1500 mg/kg;
- (5) For lead, 300 mg/kg;
- (6) For mercury, 17 mg/kg;
- (7) For molybdenum, 75 mg/kg;
- (8) For nickel, 420 mg/kg;
- (9) For selenium, 100 mg/kg;
- (10) For zinc, 2800 mg/kg; and

- (b) Be substantially free of uncombusted material.

Env-Sw 1703.03 Use. Land application of wood ash shall only occur at sites meeting the requirements for a permit exemption in Env-Sw 1704.

PART Env-Sw 1704 PERMIT-EXEMPT LAND APPLICATION FACILITIES

Env-Sw 1704.01 Land Application Sites. Wood ash land application sites shall be exempt from obtaining a permit, subject to meeting the requirements in Env-Sw 1704.02 through Env-Sw 1704.07.

Env-Sw 1704.02 Ash Standards. A permit-exempt land application site shall receive and use only ash certified for distribution and use in accordance with this chapter.

Env-Sw 1704.03 Use. The owner of a permit-exempt land application site shall use the ash received only in accordance with a farm management plan established for the site pursuant to Env-Sw 1704.04.

Env-Sw 1704.04 Farm Management Plan.

(a) Subject to the approval of and supervision by the New Hampshire department of agriculture, markets and food, a site-specific farm management plan for the land application site shall be developed and approved by the University of New Hampshire cooperative extension or by private consultants.

(b) The site-specific farm management plan for the permit-by-rule land application site shall include provisions for:

- (1) Ash storage, in conformance with Env-Sw 1002;
- (2) Soil testing as required to assure that the criteria in Env-Sw 1704.05 shall be met; and
- (3) Application rates to assure that the criteria in Env-Sw 1704.05 shall be met.

Env-Sw 1704.05 Maximum Metals Concentration in Soils. Wood ash shall not be applied to land where heavy metal concentrations in the soil exceed the cumulative pollutant loading rates established in Env-Sw 800.

Env-Sw 1704.06 Universal Environmental Performance Requirements. Practices at a permit-exempt wood ash land application site shall not violate the universal facility requirements in Env-Sw 1000.

Env-Sw 1704.07 Recordkeeping.

(a) The owner of the permit-exempt land application site shall maintain records to document the land application practices.

(b) The owner of the permit-exempt land application site shall maintain a copy of the farm management plan with site records.

(c) The generator of certified wood ash shall maintain a copy of the farm management plan for all wood ash land application sites at which the generator's ash is used.

(d) Land application site records and farm management plans shall be made available for department inspection pursuant to Env-Sw 2000.

PART Env-Sw 1705 APPLICATION AND APPROVAL

Env-Sw 1705.01 Application Content and Format. The applicant shall prepare the application for certification including the following:

- (a) Name, address and telephone number of the ash generator;
- (b) Name, address and telephone number of the facility producing the wood ash;
- (c) Volume of wood ash to be land applied, expressed in tons per year; and
- (d) Report of analyses of representative samples of the wood ash pursuant to Env-Sw 1706.01.

Env-Sw 1705.02 Application Filing.

- (a) Applications to certify wood ash for distribution and use shall be filed with the department in duplicate.
- (b) Applications to certify wood ash for distribution and use shall be signed by the ash generator as the applicant.
- (c) The signature of the applicant shall constitute:
 - (1) An affirmation that the material and information submitted is correct and complete to the best of his/her knowledge and belief;
 - (2) An affirmation that the facility generating the wood ash only combusts clean wood, as prescribed in Env-Sw 1703.01.

Env-Sw 1705.03 Application Receipt.

- (a) Upon receipt of an application, the department shall determine whether the filing requirements in Env-Sw 1705.02 have been met.
- (b) Applications filed contrary to Env-Sw 1705.02 shall not be processed by the department, but shall be held by the department while the applicant is notified of the deficiency and given an opportunity to correct the deficiency.
- (c) If, after notice pursuant to (b) above, the applicant fails to correct the deficiency within 10 working days or within a mutually agreed time, the department shall return the application as filed, with a written explanation as to the reason(s) for returning the application.

Env-Sw 1705.04 Application Review.

- (a) Within 60 days following the date an application is filed in accordance with Env-Sw 1705.02, the department shall determine whether the application is complete.
- (b) If the applicant submits any information to complete the application between the date of initial filing and the date the department determined the application is complete, the 60-day review time shall be measured from the date of latest submittal.

Env-Sw 1705.05 Incomplete Applications.

- (a) If the application is incomplete, the department shall provide written notice to the applicant

wherein:

- (1) The applicant, type of application and all documents that constitute the incomplete application shall be identified;
- (2) The deficiencies shall be identified;
- (3) Instructions shall be provided for completing the application, including the name, title, mailing address and telephone number of the department official or employee who may be contacted regarding the application; and
- (4) The applicant shall be alerted to the dormancy provisions in (d) and (e) below.

(b) In the event that an incomplete application provides information sufficient for the department to determine the criteria for issuance are not be met, the department shall deny the requested approval and send written notice thereof in accordance with Env-Sw 1705.07(c), in lieu of deeming the application incomplete.

(c) If an application is incomplete for incidental and not substantive reasons, the department shall so notify the applicant by telephone in lieu of providing a written notice of incompleteness, provided:

- (1) The anticipated time required for the applicant to correct the deficiency is less than the anticipated time required for the department to notify the applicant in writing; and
- (2) The department specifies in the verbal notice a reasonable time period, determined in consultation with the applicant, for correcting the deficiency, after which written notice shall be sent by the department in accordance with (a) above if the applicant fails to respond within the specified time.

(d) Upon notifying an applicant that the application is incomplete, the department shall suspend further processing of the application pending receipt of the additional information required.

(e) No portion of the time between the date a notice of incompleteness is provided and the date the applicant responds shall be included in computing the time limits for processing the application.

Env-Sw 1705.06 Complete Applications. A complete application shall undergo a technical review by the department pursuant to the criteria for land application in Env-Sw 1703.

Env-Sw 1705.07 Application Decision.

(a) If the criteria for certification in Env-Sw 1703 are met, the department shall issue a certificate authorizing the distribution and use of the wood ash pursuant to (d) below.

(b) If the criteria for certification in Env-Sw 1703 are not met, the department shall deny the requested approval and shall so notify the applicant in writing.

(c) The notice of denial shall:

- (1) Identify the applicant, type of application and all documents that constitute the complete application or, if the decision for denial is made without a complete application pursuant to Env-Sw 1705.05(b), all documents submitted by the applicant that form the basis of the decision;
- (2) State the specific reasons for the denial;

- (3) Provide the name, title, mailing address and telephone number of the department official or employee who may be contacted regarding the application and denial;
 - (4) Identify the applicable provisions for appeal pursuant to RSA 21-O:9, V; and
 - (5) Be signed by the director or a person so authorized by the director.
- (d) The certification to distribute and use wood ash shall:
- (1) Identify the person to whom the approval shall be granted;
 - (2) Identify the type of approval and authority for issuance;
 - (3) Identify all documents that constitute the complete application;
 - (4) Identify the specific source(s) of the wood ash to which the certification exclusively applies, including the name of the generator and location of the ash generating facility;
 - (5) Specify the terms and conditions under which the approved activity shall be authorized, including:
 - a. The date the approval shall be effective;
 - b. The expiration date, if any, and provisions for renewal as applicable; and
 - c. The requirements specified in Env-Sw 1706; and
 - (6) Be signed by the director or a person so authorized by the director.
- (e) Any decision by the department to issue certification shall not affect the applicant's obligation to obtain all requisite federal, state or local permits, licenses or approvals, or to comply with all other applicable federal, state, district or local permits, ordinances, laws or approvals or conditions pertaining to the approved activity.

PART Env-Sw 1706 TESTING AND REPORTING REQUIREMENTS

Env-Sw 1706.01 Wood Ash Testing and Reporting.

- (a) Wood ash that is land applied shall be tested on at least a quarterly basis using monthly composite samples for all parameters listed in, and in accordance with, (d) below.
- (b) Results of wood ash analyses shall be reported to the department upon completion.
- (c) Reports shall be filed in accordance with Env-Sw 303.
- (d) Analyses of representative samples of wood ash pursuant to (a) above shall be as follows:
 - (1) The analyses shall use EPA test procedures in EPA manual SW 846;
 - (2) The analyses shall include testing for the following constituents:
 - a. Cadmium;

- b. Chromium;
- c. Copper;
- d. Lead;
- e. Mercury;
- f. Nickel;
- g. Zinc;
- h. Potassium;
- i. Molybdenum;
- j. Selenium;
- k. Calcium;
- l. Magnesium;
- m. Vanadium;
- n. Arsenic;
- o. Boron;
- p. Sodium;
- q. Phosphorus;
- r. Chlorides;
- s. Percent carbon; and
- t. Lime equivalence; and

(3) The test for metals listed in (2) above shall be for total metals.

Env-Sw 1706.02 Annual Reporting.

- (a) Generators of wood ash certified for land application shall file an annual report with the department.
- (b) Annual reports shall include the following information:
 - (1) Identification and records of all land application sites which received wood ash;
 - (2) The volume of wood ash, expressed in tons, received by each land application site; and
 - (3) The cumulative loading calculations for metals for each land application site receiving

wood ash.

- (c) Reports shall be filed in accordance with Env-Sw 303.

PART Env-Sw 1707 STATUS OF APPROVALS GRANTED BEFORE OCTOBER 29, 1997

Env-Sw 1707.01 Applicability. The rules in this part shall apply to all persons holding a written certification or approval to distribute and use wood ash for agricultural land application granted by the department prior to October 29, 1997 and signed by the director or person so authorized by the director, who continue to operate under the certification or approval.

Env-Sw 1707.02 Status of Approval.

(a) A written certification or approval identified in Env-Sw 1707.01 shall remain valid provided the holder of the certification or approval complies with the terms of the written certification or approval and with Env-Sw 1000.

(b) The terms and conditions of the certification or approval shall remain unchanged unless modified pursuant to applicable provisions of Env-Sw 300.

(c) If required for administrative purposes, the department shall:

- (1) Assign a new number to the certification or approval granted prior to October 29, 1997; and
- (2) Send written notice thereof to the person holding the certification or approval.

CHAPTER Env-Sw 1800 REDUCTION OF TOXICS IN PACKAGING

Statutory Authority: RSA 149-M:7

PART Env-Sw 1801 PURPOSE AND APPLICABILITY

Env-Sw 1801.01 Purpose. The purpose of these rules is to supplement the provisions of RSA 149-M:32-40, relative to reducing heavy metals in package and packaging components as one step in reducing the toxicity of solid waste when it is disposed of by landfilling or incineration.

Env-Sw 1801.02 Applicability. These rules shall apply to all package and packaging components sold, offered for sale or otherwise distributed in New Hampshire except as provided by RSA 149-M:35.

PART Env-Sw 1802 DEFINITIONS

Env-Sw 1802.01 “Intentional introduction” means “intentional introduction” as defined in RSA 149-M:33, IV.

Env-Sw 1802.02 “Manufacturer” means “manufacturer” as defined in RSA 149-M:33, VI.

Env-Sw 1802.03 “Package” means “package” as defined in RSA 149-M:33, VII.

Env-Sw 1802.04 “Packaging component” means “packaging component” as defined in RSA 149-M:33, VIII.

Env-Sw 1802.05 “Petitioner” means a manufacturer or supplier filing a petition for exemption from

RSA 149-M:35.

Env-Sw 1802.06 “Post-consumer material” means “post-consumer material” as defined in RSA 149-M:33, IX.

Env-Sw 1802.07 “Purchaser” means any person receiving a package or packaging component directly from the manufacturer or supplier of the package or packaging component who then sells or distributes the package or packaging component to a retail consumer.

Env-Sw 1802.08 “Reformulate” means to change the way a package or packaging component is manufactured so as to result in a different concentration of lead, cadmium, mercury or hexavalent chromium.

Env-Sw 1802.09 “Supplier” means “supplier” as defined by RSA 149-M:33, X.

PART Env-Sw 1803 EXEMPTIONS

Env-Sw 1803.01 Petition for Exemption.

(a) No petition for exemption shall be necessary if a package or packaging component is eligible for an automatic exemption under RSA 149-M:35.

(b) Subject to (c) below, in order for a petition for exemption from RSA 149-M:32-40 to be valid, the manufacturer of the package or packaging component shall file the petition.

(c) If a manufacturer of a package or packaging component does not provide a supplier with a certificate of compliance and the supplier believes the package or packaging component is eligible for an exemption, the supplier may file a petition for exemption.

(d) The petition for exemption shall be filed with the department.

(e) The petition shall include the following:

(1) The name, address, and telephone number of the manufacturer or supplier seeking the exemption;

(2) The name and position of the individual who can answer questions on behalf of the petitioner about the petition;

(3) The reason why the exemption is being sought;

(4) The type of package or packaging component for which the exemption is sought and the use thereof;

(5) The heavy metals identified in RSA 149-M:32 that are present in the package or packaging components;

(6) The concentration(s) of the identified heavy metal(s) present in the package or packaging component, and the testing methods used to determine the concentration(s);

(7) If the package or packaging components are necessary in order to comply with health or safety requirements of federal law as specified in RSA 149-M:35, I(b), identification of the federal law(s) together with a copy of the law(s); and

(8) If there is no feasible alternative for reducing the identified heavy metals in the package or packaging components, substantiating information addressing the criteria in Env-Sw 1803.02, including a timetable for ongoing and future efforts to achieve compliance through feasible alternatives to using the identified heavy metals.

Env-Sw 1803.02 Criteria for Petitioned Exemptions.

(a) No petition for an exemption shall be granted unless the petitioner demonstrates to the commissioner either that:

(1) The identified heavy metals present in the package or packaging component are necessary in order to comply with federal health or safety requirements; or

(2) No feasible alternative to the use of the identified heavy metals exists, as “no feasible alternative” is defined in RSA 149-M:35, I(c).

(b) A petitioner shall demonstrate that the identified heavy metals present in the package or packaging component are necessary in order to comply with federal health or safety requirements by providing a copy of the federal requirements together with such additional information as would allow an independent reasonable person to conclude that the metals are necessary.

(c) A petitioner shall demonstrate that no feasible alternative exists to the use of the heavy metal in the package or packaging component by submitting such written materials as would allow an independent reasonable person to conclude that the metals are essential to the protection, safe handling or functioning of the package’s contents.

Env-Sw 1803.03 Processing of Petition for Exemption.

(a) The department shall notify the petitioner in writing within 5 working days of receiving a petition for exemption that the exemption petition has been received.

(b) The department shall review the exemption petition for completeness within 30 days of receipt.

(c) If the exemption petition is determined to be incomplete, the department shall notify the petitioner within 10 working days of the determination with a specific request for the information needed to complete the application.

(d) If the exemption petition is determined to be complete, the commissioner shall designate staff to review the petition and make a recommendation to grant or deny, within 60 days of designation, based on the criteria specified in Env-Sw 1803.02.

(e) The commissioner shall review the petition, the recommendation, and the criteria specified in Env-Sw 1803.02. If the commissioner determines that the petition meets the criteria, the commissioner shall grant the petition within 30 days of the date it was forwarded, and shall notify the petitioner in writing of the decision.

(f) If the petition is granted, the written notice shall include:

(1) The effective date of the exemption;

(2) The expiration date of the exemption, which shall be the shorter of 2 years or the period

requested by the petitioner; and

(3) If the exemption is for 2 years, the deadline for the application for renewal of the exemption, which shall be 90 days prior to the expiration date of the exemption.

(g) The petitioner shall send an annual progress report to the commissioner based on the petitioner's efforts to come into compliance with RSA 149-M:32-40.

(h) If the commissioner determines that the petition does not meet the criteria, the commissioner shall deny the petition within 30 days of the date it was forwarded, and shall notify the petitioner in writing of the decision and of applicable appeal procedures. The written notice shall state the reason(s) for the denial.

PART Env-Sw 1804 RENEWAL OF EXEMPTIONS

Env-Sw 1804.01 Request for Renewal of Exemption.

(a) Any manufacturer or supplier seeking a renewal of an exemption received pursuant to Env-Sw 1803.03 shall file a written renewal request at least 90 days prior to the exemption's expiration date.

(b) The renewal request shall contain:

(1) The information specified in Env-Sw 1803.01(d);

(2) The differences, if any, between the information in the renewal request and the information provided with the original exemption petition; and

(3) For exemption renewals based on there being no feasible alternative to the use of the identified heavy metal, a report on progress in meeting the timetable for achieving compliance that was submitted with the original exemption request.

Env-Sw 1804.02 Criteria for Renewal of Exemption. Criteria for renewal of exemption shall be as specified in Env-Sw 1803.02.

Env-Sw 1804.03 Processing of Petition for Renewal of Exemption. The renewal request shall be processed in accordance with Env-Sw 1803.03.

PART Env-Sw 1805 CERTIFICATE OF COMPLIANCE

Env-Sw 1805.01 Availability of Certificate of Compliance.

(a) Certificates of compliance shall be made available as prescribed by RSA 149-M:36, I.

(b) If a supplier is unable to obtain a certificate of compliance from a manufacturer of a package or packaging component but has sufficient information to prepare the certificate, the supplier shall prepare the certificate based on that information.

(c) If a supplier is unable to obtain a certificate of compliance from a manufacturer of a package or packaging component and does not have sufficient information to prepare the certificate, the supplier shall not be guilty of a failure to provide the certificate if the supplier has notified the department in accordance with (e) below that the certificate is unavailable from the manufacturer.

(d) If a purchaser is unable to obtain a certificate of compliance from a manufacturer or supplier

of a package or packaging component, the purchaser shall not be liable for failure to retain the certificate as required by RSA 149-M:36, I, if the purchaser has notified the department in accordance with (e) below that the certificate is unavailable from the manufacturer or supplier.

(e) Notification under (c) or (d) above shall:

- (1) Be in writing; and
- (2) Include the following:
 - a. The name, address and telephone number of the person filing the notification;
 - b. The type of package or packaging component for which a certificate cannot be obtained;
 - c. The name(s) and address(es) and, if available, the telephone number(s) of the manufacturer of the package or packaging component;
 - d. If the notice is filed pursuant to (d) above, the name(s) and address(es) and, if available, the telephone number(s) of the supplier(s) of the package or packaging component; and
 - e. A brief summary of the attempts made to obtain the certificate.

(f) No person shall be held responsible for erroneous information in a certificate of compliance if all of the following are true:

- (1) The person is not the manufacturer of the package or packaging component;
- (2) The person did not prepare the certificate;
- (3) The person did not have any reason to believe the information in the certificate was erroneous; and
- (4) The person in good faith believed the information in the certificate to be true.

Env-Sw 1805.02 Certificate of Compliance Contents.

(a) All certificates of compliance for package or packaging components shall be completed by the manufacturer or supplier and included in the shipment of the package or packaging component to the purchaser.

(b) Each certificate of compliance shall include the following:

- (1) Type of package or packaging component;
- (2) Company name;
- (3) Company address;
- (4) Name, signature, and title of authorized official;
- (5) Name and position of the individual who can answer questions regarding the

composition of the package or packaging component;

(6) Date the certificate of compliance is completed;

(7) Either a statement that there has been no intentional introduction of the identified heavy metals in the package or packaging component, or, for a package or packaging component for which an exemption has been granted under RSA 149-M:35, a statement identifying the applicable exemption which allows the intentional introduction; and

(8) Either a statement that the total concentration of any incidental amounts of the identified heavy metals in the package or packaging component does not exceed the limit established in RSA 149-M:34 or, for a package or packaging component for which an exemption has been granted under RSA 149-M:35, a statement identifying the applicable exemption allowing the exceedence of the limits.

Env-Sw 1805.03 Requests for Certificate of Compliance.

(a) Requests for copies of certificates of compliance shall be made in accordance with RSA 149-M:39.

(b) The manufacturer or supplier who receives a request for a certificate of compliance in accordance with RSA 149-M:39 shall provide a copy of the written request to the department with the copy of its response required by RSA 149-M:39.

Env-Sw 1805.04 Amended Certificate of Compliance.

(a) Amendments to certificates of compliance shall be made in accordance with RSA 149-M:36, II.

(b) In addition to the information specified in Env-Sw 1804.02, the amended certificate shall include the following:

(1) The previous composition of the package or packaging component;

(2) The reformulation, including the new level of identified heavy metals used; and

(3) Any difference(s) between the grounds for compliance as stated in the original certificate of compliance and the amended certificate of compliance.

CHAPTER Env-Sw 1900 SOLID WASTE MANAGEMENT DISTRICTS

Statutory Authority: RSA 149-M:7

PART Env-Sw 1901 APPLICABILITY

Env-Sw 1901.01 Applicability. The rules in this chapter shall apply to all municipalities addressing the management of solid waste as required by RSA 149-M:23-25.

PART Env-Sw 1902 DISTRICT AND SUBDISTRICT AGREEMENTS

Env-Sw 1902.01 Filing. Pursuant to RSA 149-M:24, III, solid waste management districts shall file a copy of their written organizational agreement with the department upon execution.

PART Env-Sw 1903 DISTRICT AND SUBDISTRICT SOLID WASTE MANAGEMENT PLANS

Env-Sw 1903.01 District Plan Submittals.

(a) Within 120 days from the date of district formation, a district shall submit to the department for review and approval pursuant to Env-Sw 1904, a solid waste management plan which is endorsed by the district membership.

(b) A copy of the district's minutes approving the submission of the proposed district plan shall constitute evidence that the plan is endorsed by the district members.

Env-Sw 1903.02 District Plan Requirements.

(a) The district plan shall complement the state solid waste plan for the purposes of implementation.

(b) The district plan shall conform to the requirements of RSA 149-M:25 and the requirements in Env-Sw 1903.03 through Env-Sw 1903.06.

Env-Sw 1903.03 Geographics and Economics. The district plan shall include a description of the geographic and economic relationships between the municipalities belonging to the district, including:

- (a) A list of municipalities belonging to the district;
- (b) A regional map showing:
 - (1) The location of the municipalities belonging to the district;
 - (2) Existing road networks; and
 - (3) Natural geographic features;
- (c) Current and projected 5, 10, and 15-year populations and estimated tourist populations within the member municipalities and for the district;
- (d) Identification of commercial and industrial activity that affects the population; and
- (e) The current municipal solid waste budget for each member municipality and financial reserves accumulated by each municipality for future solid waste expenditures.

Env-Sw 1903.04 Current and Projected Waste Streams.

(a) A district plan shall include a description and analysis of the current and projected 5, 10, and 15-year waste streams generated by the member municipalities as to the type, volume and weight.

- (b) The description and analysis shall include, for each member municipality, the quantity of:
 - (1) Residential waste generated;
 - (2) Commercial and industrial waste generated;
 - (3) Potential recyclable material, identified by type;
 - (4) Waste actually being recycled;

- (5) Motor vehicle waste, including used oil, wet-cell batteries and tires generated;
- (6) Yard waste generated;
- (7) Construction and demolition debris generated;
- (8) Incinerator bottom ash and fly ash generated;
- (9) Bulky wastes including metals generated;
- (10) Stumps and brush generated;
- (11) Household hazardous waste generated;
- (12) Infectious waste generated; and
- (13) Other wastes generated, particular to the district.

(c) The description and analysis shall include the total quantity of waste generated by each member municipality and the district.

Env-Sw 1903.05 Existing Waste Disposal Facilities and Programs. A district plan shall include an analysis of the existing waste management facilities and practices active within the district, including:

(a) A list and description of facilities located in the district, including the following information for each facility:

- (1) Facility type;
- (2) Facility location;
- (3) Facility owner;
- (4) Facility operator;
- (5) Description of operations;
- (6) Estimated facility life expectancy and remaining capacity;
- (7) Types and amounts, by weight and volume, of waste handled annually;
- (8) Facility users;
- (9) Permit and compliance status of the facility; and
- (10) All contractual arrangements by member municipalities for facility use;

(b) A description of existing recycling programs, including:

- (1) Materials recycled;
- (2) Method of collection, sorting, and processing; and

(3) Markets;

(c) An analysis of the network currently available for transporting solid waste within the district and subdistricts, including:

(1) The waste pickup system;

(2) The delivery system; and

(3) Destinations; and

(d) A description of arrangements for managing district generated waste at facilities outside the district, including:

(1) Inter-municipal and contractual arrangements;

(2) Types and quantities of waste so managed; and

(3) Management locations.

Env-Sw 1903.06 Future Capacity. A district plan shall identify a 10-year capacity for managing waste at existing, expanded, or proposed facilities and provisions for an ongoing planning process of 15 years from the date of plan submittal, including:

(a) Identification and description of planned recycling and waste reduction programs, including:

(1) Types of materials to be collected and the methods of collection;

(2) The facilities for and methods of receiving, storing and processing materials;

(3) The markets for use of recycled materials;

(4) The economic ramifications to the district and member municipalities from the proposed collection, processing and marketing of recycled waste; and

(5) The implementation of programs, including:

a. Project coordination;

b. Activities to educate the public about recycling and waste reduction programs;

c. Local ordinance provisions to implement the programs;

d. Provisions for curb-side collection; and

e. The construction of material recovery facilities;

(b) Identification and description of the management options to be evaluated or implemented for non-recyclable solid waste addressing the following factors:

(1) Environmental issues;

- (2) Economic and financial issues;
 - (3) Capacity planning and assured services;
 - (4) Technical requirements;
 - (5) Land and siting requirements;
 - (6) Traffic and transportation issues;
 - (7) Regulatory requirements;
 - (8) Implementation requirements; and
 - (9) Consistency with the solid waste management hierarchy in RSA 149-M:3; and
- (c) Identification and description of the management methods to be evaluated and the implementation requirements for select wastes, including:
- (1) Composting of organic material;
 - (2) Tires;
 - (3) Bulky metal wastes;
 - (4) Construction and demolition debris;
 - (5) Stumps and brush;
 - (6) Household hazardous waste;
 - (7) Infectious waste;
 - (8) Waste oil;
 - (9) Wet cell batteries;
 - (10) Incinerator ash; and
 - (11) Other wastes particular to the district.

Env-Sw 1903.07 Implementation. A district plan shall include a description of how the plan will be implemented including, but not limited to:

- (a) The financial means and organizational structure;
 - (b) A schedule of implementation including specific milestones for short and long term activities;
- and
- (c) A funding mechanism for implementation.

PART Env-Sw 1904 DISTRICT AND SUBDISTRICT PLAN REVIEW AND APPROVAL

Env-Sw 1904.01 District and Subdistrict Plan Review.

- (a) The department shall review each district plan and provide written notice to the district in accordance with RSA 149-M:25, II.
- (b) If a hearing is requested pursuant to RSA 149-M:25, II, the hearing shall be conducted pursuant to the provisions of Env-C 200 applicable to non-adjudicative hearings.

Env-Sw 1904.02 Approval Process.

- (a) The department shall approve a district plan provided that:
 - (1) The member municipalities have endorsed the plan;
 - (2) The plan affirmatively addresses the criteria in RSA 149-M:25 and each of the requirements in Env-Sw 1903.02 through Env-Sw 1903.07; and
 - (3) The plan is consistent with achieving the solid waste reduction goal in RSA 149-M:2 and the disposal hierarchy in RSA 149-M:3.
- (b) If a district plan does not meet the conditions for approval, the department shall provide a rejection notice pursuant to Env-Sw 1904.03 and require modifications of those portions of the plan that are deficient according to (a) above.
- (c) Districts shall respond to the department's request for modifications and changes within 75 days of receipt of the written notification provided pursuant to Env-Sw 1904.03.
- (d) As required by RSA 149-M:25, II, the department shall take final action on a plan within 120 days of submission.

Env-Sw 1904.03 Notification.

- (a) Each municipality in a district shall be notified by the department in writing as to a decision to approve or reject a proposed district plan.
- (b) If the department rejects the plan, the notification shall specify the specific reason(s) for the rejection.

Env-Sw 1904.04 Implementing, Changing and Updating a Plan.

- (a) Pursuant to RSA 149-M:25, II, a district shall begin implementing its plan within 60 days after receipt of written notice approval by the department.
- (b) In order to demonstrate continuous compliance with an approved plan as required by RSA 149-M:25, III and to assure facility permits are issued by the department in conformity with a district plan as required by RSA 149-M:11, a district shall submit any changes to the district plan in writing, to the department 30 days prior to such changes.
- (c) Review and approval of the changes shall proceed in accordance with Env-Sw 1904.02 and Env-Sw 1904.03.

Env-Sw 1904.05 District Plan Approval Duration. The approval of a district plan shall be continuous subject to the provisions of Env-Sw 1904.04(b) and RSA 149-M:25, I(e).

CHAPTER Env-Sw 2000 INSPECTIONS

Statutory Authority: RSA 149-M:7

PART Env-Sw 2001 APPLICABILITY

Env-Sw 2001.01 Applicability. All facilities, including permit-exempt facilities, shall be subject to the inspection provisions of this chapter.

PART Env-Sw 2002 INSPECTION PROCEDURES

Env-Sw 2002.01 Right of Inspection. In order to investigate either actual or suspected sources of potential harm to human health or the environment and to ascertain compliance or non-compliance with the solid waste rules, the department shall:

- (a) Inspect any public or private property or premises as authorized by RSA 149-M:6, IV, including collection, storage, transfer, processing, treatment, and disposal facilities;
- (b) Gather evidence on existing conditions and procedures;
- (c) Obtain representative samples of containers, materials and wastes;
- (d) Conduct tests, analyses, and evaluations;
- (e) Photograph containers, tanks, labels, processes or conditions related to waste collection, storage, transfer, processing, treatment, and disposal;
- (f) Inspect or be provided copies of, or both, any pertinent records, reports of information and test results relating to the requirements of the solid waste rules upon request; and
- (g) Obtain any other information as authorized by law.

Env-Sw 2002.02 Credential Presentation. In conducting an inspection of a facility, department personnel shall, subject to privileges provided for by law, present his/her identification to, in order of preference, the owner or operator or their representative or to the senior company representative present, if any.

Env-Sw 2002.03 Inspection Reports. Upon conducting an inspection of a facility, the department shall, subject to RSA 91-A:

- (a) Make a written report listing the conditions found during the inspection;
- (b) Keep the report on file at the department; and
- (c) Provide a copy of the report to the owner or operator or his agent, if requested.

Appendix

Rule Sections	Statute(s) Being Implemented
Env-Sw 400	RSA 149-M:6, III; RSA 149-M:7, II, III, XIV; RSA 149-M:9, I, III
Env-Sw 500	RSA 149-M:6, III; RSA 149-M:7, II, III, XIV; RSA 149-M:9, I, III
Env-Sw 600	RSA 149-M:6, III; RSA 149-M:7, II, III, XIV; RSA 149-M:9, I, III
Env-Sw 700	RSA 149-M:6, III; RSA 149-M:7, II, III, XIV; RSA 149-M:9, I, III
Env-Sw 800	RSA 149-M:6, III; RSA 149-M:7, II, III, XIV; RSA 149-M:9, I, III
Env-Sw 900	RSA 149-M:6, XIV; RSA 149-M:7, VIII
Env-Sw 1000	RSA 149-M:6, III; RSA 149-M:7, II, III, XIV; RSA 149-M:9, I, III
Env-Sw 1100	RSA 149-M:6, III; RSA 149-M:7, II, III, XIV; RSA 149-M:9, I, III
Env-Sw 1200	RSA 149-M:6, III; RSA 149-M:7, II, III, V, XIV; RSA 149-M:9, I, III
Env-Sw 1300	RSA 149-M:6, IX; RSA 149-M:7, XII; RSA 149-M:41-50
Env-Sw 1400	RSA 149-M:7, XV; RSA 149-M:9, X
Env-Sw 1500	RSA 149-M:7, V, XV
Env-Sw 1600	RSA 149-M:6, XIII; RSA 149-M:7, VI; RSA 149-M:9, VI
Env-Sw 1700	RSA 149-M:6, XIV; RSA 149-M:7, VIII
Env-Sw 1800	RSA 149-M:7, XII; RSA 149-M:32-40
Env-Sw 1900	RSA 149-M:6, VIII; RSA 149-M:7, I; RSA 149-M:24
Env-Sw 2000	RSA 149-M:6, I, IV; RSA 149-M:7, XV